No. 93-880

SUPREME COURT, U.S.
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In The

Supreme Court of the United States

October Term, 1993

JUDY MADSEN, ED MARTIN, and SHIRLEY HOBBS,

Petitioners,

v.

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,

Respondents.

On Writ Of Certiorari To The Supreme Court Of Florida

JOINT APPENDIX
VOLUME I
PAGES 1-318

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EDITOR'S NOTE

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** Petitioners objected to the inclusion of this testimony en masse in the Joint Appendix because it was transcribed after the granting of the Petition for Writ of Certiorari and was not before the Supreme Court of Florida.

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IN AND FOR SEMINOLE COUNTY, FLORIDA

DOCKET

Date	Description
10/25/91	Complaint filed by Women's Health Center
10/25/91	Motion for Temporary Restraining Order filed by Women's Health Center
12/06/91	Motion to Dissolve Temporary Restraining Order and Injunction by Operation Rescue America, Ed Martin, Judy Madsen and Shirley Hobbs
01/07/92	Motion for Permanent Injunction by Women's Health Center
07/30/92	Stipulated Facts by the Parties
10/02/92	Permanent Injunction by Judge Hall dated 9/30/92
10/27/92	Notice of Appeal
03/18/93	Notice of Hearing for 3/22/93 at 1:30 p.m.
03/19/93	March 1993 Motion Number 1: Emergency Motion for Sanctions Against Defendants Who Violated Court's Injunctive Order filed by Women's Health Center
03/22/93	Emergency Motion for Modification of Injunctive Order by Women's Health Center
03/31/93	Order on Appellees' Emergency Motion to Relinquish Jurisdiction is Granted for the Purpose of Seeking Additional Injunctive Relief by the 5th District Court of Appeals
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FIFTH DISTRICT

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Date	Description
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06/03/93	Transferred, Rule 9.125 certifying constitutionality

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SUPREME COURT OF FLORIDA

DOCKET

Date	Description
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06/07/93	Initial Brief on the Merits and Appendix
06/07/93	Answer Brief on the Merits and Appendix
06/07/93	Reply Brief on Merits and Appendix
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10/28/93	Trial Court's Order Imposing Amended Permanent Injunction
11/08/93	Emergency Motion to Require Enforcement of Injunctive Order
11/10/93	Response to Emergency Motions by City of Melbourne
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11/22/93	Mandate

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., and CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,

Petitioners,

v.

OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, Ed Martin, Bruce Cadle, Pat Mahoney, Randall Terry, Judy Madsen, and Shirley Hobbs,

Respondents.

Case No. 91-2811-CA

PERMANENT INJUNCTION

This cause came before the court upon the petition for permanent injunction and, based upon the arguments of counsel, the affidavits and the stipulation of the parties, the court finds:

Findings of Fact

1. Petitioners brought this action seeking a permanent injunction to protect the health, safety and rights of women in Brevard and Seminole County, Florida and surrounding counties seeking access to abortion, gynecological and other family planning services.

2. Respondents are individuals and organizations, acting in concert, who have planned a nationwide campaign, which they call "OPERATION RESCUE" (hereinafter, "OPERATION"), directed towards closing down abortion clinics and providers throughout the country. Respondents' own literature states that their intention is to "Physically close down abortion mills" by encircling them with thousands of protesters and blocking access to the facilities. Operation Goliath is dedicated to similar principles.

3. Petitioners are the owners of certain real property located in Brevard and Seminole County, Florida and other parts of Central Florida upon which businesses are run by petitioners which offer abortions along with birth control counselling to women.

4. Ed Martin, Pat Mahoney, Randall Terry, Judy Madsen and Shirley Hobbs are members of Operation Rescue and Operation Rescue America.

5. Ed Martin and Pat Mahoney have stated an intent to prevent persons from obtaining abortions in the Brevard and Seminole County area by blocking access to clinics.

6. Respondents have passed out flyers in the Central Florida area stating an intent to close down abortion clinics in this area.

7. Respondent, Pat Mahoney, was a leader in the Wichita, Kansas protests. Respondents, Ed Martin and Pat Mahoney, have made statements that there will be or may be a blocking of the entrance to an abortion clinic in the Central Florida area. Pat Mahoney and Ed Martin have

stated to members of the press that they intend to shut down a clinic, and have issued a press release which states that "the spirit of Wichita comes to Florida". The press release also contained information that the Reverend Ed Martin of Ocala announces an "Operation Rescue" for Central Florida.

8. Literature obtained from Rescue America states that their members should ignore the law of the State and the police officers who remove them from their blockading positions.

9. Respondents, OPERATION GOLIATH and its director, Bruce Cadle, disseminate written communication to various individuals throughout the country, some of whom reside in Seminole and Brevard County, which contains statements about closing down abortion clinics similar to those in the OPERATION RESCUE literature.

10. Petitioners and petitioners' patients and employees have no adequate remedy at law and will suffer irreparable harm if respondents are not enjoined from blocking or otherwise interfering with access to petitioners' clinics.

Conclusions of Law

1. An injunction is the appropriate remedy to prevent interference with petitioners' prospective business relationships with potential clients seeking access to abortion, gynecological, and other family planning services offered by petitioners. See *Drake v. Henson*, 448 So.2d 1205 (Fla. 3rd DCA 1984); *DeRitis v. Ahz Corporation*, 444 So.2d 93 (Fla. 4th DCA 1984). Respondents have

engaged and threatened to engage in continuing wrongs to petitioners' property interests and their business relationships and prevention of said interference is a proper basis for injunctive relief. See *Detolo v. Schouten*, 426 So.2d 1013 (Fla. 2nd DCA 1983); *Unistar Corporation v. Child*, 415 So.2d 733 (Fla. 3rd DCA 1982). Since respondents' interference and intended interference is clearly harmful conduct that results in irreparable harm, an injunction is appropriate. See *Sentry Insurance v. Dunn*, 411 So.2d 336 (Fla. 5th DCA 1982). Respondents activities have improperly resulted in an interruption of business activities and continuing damage to petitioners' business reputation.

2. The right of choice is strongly protected in Florida based upon the explicit language of Article I, Section 23 of the Florida Constitution. See *In re T.W.*, 551 So.2d 1186 (Fla. 1989). In addition to interfering with petitioners' prospective business relationships, respondents have sought to interfere with petitioners' patients right of choice which is protected under the Florida Constitution. Additionally, respondents activities have interfered with petitioners' employees right to work which is guaranteed under Article I, Section of the Florida Constitution.

3. Although respondents potential actions may be criminal in nature, they also constitute a recognized ground of equitable relief for which injunction is appropriate. See *Drake v. Henson, supra; DeRitis v. Ahz Corporation, supra*. While injunctive relief will generally not lie to restrain criminal activity unaccompanied by some recognized ground of equitable relief, the intervention of equity is warranted to protect civil or property interests where criminal prosecution is inadequate to effect this purpose. See *Syfo Water Company v. Chakoff*, 182 So.2d 17

(Fla. 3rd DCA 1965); *Davis v. Florida East Coast Railroad*, 166 So.2d 774 (Fla. 2nd DCA 1964). The criminal trespass statutes do not address the injuries which will occur to petitioners if respondents are not restrained from engaging in the activities which are sought to be enjoined.

Based upon the foregoing it is

ORDERED:

A. Respondents, OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, Ed Martin, Bruce Cadle, Pat Mahoney, Randall Terry, Judy Madsen, and Shirley Hobbs, are hereby enjoined from:

1) trespassing on, sitting in, blocking, impeding or obstructing ingress into or egress from any facility at which abortions are performed in Brevard and Seminole County, Florida;

2) physically abusing persons entering, leaving, working or using any services of any facility at which abortions are performed in Brevard and Seminole County, Florida; and,

3) attempting or directing others to take any of the actions described in Paragraphs 1 and 2 above.

B. Nothing in this Court's Order should be construed to limit Respondents' exercise of their legitimate First Amendment rights, such as, but not limited to, carrying signs, singing, and praying, in a manner which does not violate 1), 2), and 3) above;

C. This Court retains jurisdiction for determination of any costs to be imposed upon Respondents.

DONE AND ORDERED in Chambers at Sanford, Seminole County, Florida, this 30th day of September, A.D. 1992.

/s/ Wallace H. Hall
Wallace H. Hall, Circuit Judge

Copies furnished to:

Jerri A. Blair, Esq.
Christopher J. Weiss, Esq.
Patrick Mahoney
Bruce Cadle
Randall Terry

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., and CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,	)	CASE NO. 91-2811-CA
Plaintiffs,	)	
v.	)	
OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, Ed Martin, Bruce Cadle, Pat Mahoney, Randall Terry, Judy Madsen, and Shirley Hobbs,	)	
Defendants.	)	

MARCH 1993 MOTION NUMBER 2:
EMERGENCY MOTION FOR MODIFICATION OF INJUNCTIVE ORDER

The plaintiffs move the Court for modification of the Permanent Injunction entered by this Court on September 30, 1992 and, incorporating by reference the statements in the "March 1993 Motion Number 1: Motion for Sanctions Against Defendants Who Have Violated Court's Injunctive Order," the plaintiffs further state:

1. The harassment and intimidation directed against the plaintiffs and particularly against the clinic in

Melbourne, Florida, owned and operated by Aware Woman Center for Choice has increased in recent weeks and the threat of violence has been made more real by the fact that violent threats in Pensacola, Florida have escalated into murder of a physician there.

2. The techniques of harassment and intimidation have also become more sinister with the following activities coming into consistent use:

a. On numerous occasions, Aware Woman's driveway has been blocked, employees' cars have been vandalized and efforts have been made to cause the clinic to cease doing business. Copies of literature soliciting illegal activity by defendants and those acting in concert with them are attached to this motion as Exhibits 1,2 and 3. Operation Goliath, which has been described by defendants as "the biggest, meanest, most threatening and best armored champion of the Philistines" is an ongoing operation targeting Aware Woman. They have stated that they are "part of a specific strategy to put an end to abortion in our community." Defendants solicit others to act in concert with them by "join[ing] us every Wednesday and Saturday at Aware Woman . . . Center, to rescue those who are unjustly sentenced to death." Clearly, the stated intention of defendants is to interfere with Aware Woman's business relationships with its clients, to interfere in the medical relationship between physician and patient, and to invade the property and privacy rights of Aware Woman its employees and its patients. In addition to the above-described activities, there has been consistent harassment, intimidation, stalking, trespass and threats by defendants directed toward plaintiffs.

b. Operation Rescue has organized something it calls "IMPACT" standing for "Institute of Mobilized Prophetic Activated Christian Training" and "IMPACT Team" participants have appeared in the early mornings outside clinic staff homes. They ring the front doorbell, and when the door is answered by the staff member or family member, they are met with flashing cameras and video cameras of the defendants recording the incident. Defendants picket outside staff's homes and yell at staff inside. This conduct has occurred at two former staff members' homes and at least five current staff members' homes in the past two months. Anti-abortion literature is distributed in the neighborhoods and at homes of clinic workers; letters addressed personally to staff members and their neighbors have been left on doors of staff and neighbors' homes.

c. A large, black surveillance van outside the clinic hovers on the street during days when abortions are performed at the Aware Woman Clinic. This van has also been seen at two staff members' homes.

d. Defendants and their cohorts demonstrate outside the home of Patricia and Ted Windle, principals of Aware Woman, with the Windles' names on signs – including a sign that says Patricia Windle practices ritual child sacrifice.

e. The clinic's five phone lines, including an 800 number, are jammed with incoming calls from around the country. Some 5400 calls have flooded in on the 800 number within the last month. Patients are not able to get through on the phones. When the phones are answered, sometimes there is only silence, other times statements

are made, for example: "We represent America and if you don't stop killing babies you can get bombed." On the day Dr. Gunn was killed a phone call was received inside the Aware Woman Clinic: "One down, how many more will it take until you stop killing babies?" These tactics have interfered with the plaintiffs' business and have interfered with the communications between the clinic and those who seek its services.

f. The 13-year old son of a clinic staff person was lured into the car of an anti-abortion demonstrator and driven to a nearby fast food restaurant, where other anti-abortion demonstrators were waiting, and taunted with the statement that "he and his whole family would go to hell if his mother didn't stop killing babies." See affidavit of Lisa Merritt.

g. The 82-year old mother of a physician (Dr. Snydle, a physician who performs abortions at the clinic) received a call in the middle of the night that her son had been killed in an automobile accident.

h. An IMPACT TEAM member told clinic staff/ Clinic Defense Coordinator Ruth Arick: "I pray for your death in the name of Jesus."

i. Patients' and staff license plates have been traced through the Department of Motor Vehicles. Patients receive letters at home from the Women's Legal Action Coalition with accompanying documents urging legal action against the clinic. See attached Exhibits 4 and 5.

j. As patients arrive at the clinic and attempt to drive into the patient parking lot, their cars are slowed

and/or stopped by anti-abortion protesters blocking the driveway. The cars are then approached by "sidewalk counselors," material is shoved at the windows, and patients are yelled at "not to kill their baby," while protesters yell "mommy . . . mommy . . . daddy . . . daddy."

k. Shortly after Dr. Gunn was assassinated in Pensacola, on Wednesday, March 10, 1991, anti-abortion demonstrators outside the Melbourne clinic cheered at the news.

l. The clinic has received and continues to receive threatening letters in the mail.

m. Defendants have blockaded Dr. Monthree Raungsomboon in his home in Winter Park for two hours one day until he escaped through the yard of a neighbor. His son was followed onto a school bus.

n. Defendants picketed and harassed Dr. Snydle at a local hotel where he was staying the night before scheduled abortion procedures at the clinic.

3. Central to the *modus operandi* of Operation Rescue, the other defendants and those who act in concert with them, is the willingness and intent to violate valid city ordinances, state laws, and court orders in order to accomplish their unlawful objectives. Operation Rescue and the other defendants typically instruct other persons participating in their blockades to violate the law, including lawful court orders enjoining their illegal conduct. Operation Rescue, Rescue America and the other Defendants have called upon IMPACT Teams to descend upon Melbourne, Aware Woman Center, and other abortion clinics in the vicinity not simply to engage in pickets but

to implement "the threat of rescue" and other illegal actions. Defendants are not simply engaged in lawful protest, they are engaged in blockades, trespass, stalking and other illegal activities that have targeted Aware Woman, its patients and staff. Such activities have no First Amendment protection and, indeed, violate numerous local ordinances, state statutes and plaintiffs' constitutional and common law rights.

4. Upon information and belief, Defendants have engaged in multiple unlawful agreements. Defendants have also stated their public intention to act in furtherance of their conspiracy by:

a. engaging in illegal blockages and disruptions of certain clinics;

b. implementing the "threat of rescue;"

c. conducting targeted residential picketing of clinic owners and staff;

d. drawing "the battle lines and declaring an all out 'holy war' " on Aware Woman and clinics like it;

e. providing telephone numbers and registration data to marshall their forces for attack;

f. soliciting membership in IMPACT teams to make "house calls" and engage in other street activity;

g. jamming telephone lines;

h. soliciting others to "join them every Wednesday and Saturday at Aware Woman . . . Center to rescue those who are unjustly sentenced to Death!"

i. "obeying God's law" while in Florida, rather than the laws of the State and the United States.

5. Consistent with their economic motivations, defendants Operation Rescue National have charged their co-conspirators "registration fees" of $25.00 and a "commitment" fee of $50.00 per week for the duration of each conspirator's participation in the illegal activities of defendants and their IMPACT Teams. Defendants use mailings in which they solicit illegal activity to raise money to support their "personal needs." Copies of the forms by which defendants have "pre-registered" willing lawbreakers in Florida are attached to this petition as Exhibits 6 and 7.

6. Defendants' current and intended activities violate various Florida statutes and city ordinances. These violations have caused concern at the very top of Florida law enforcement. Gov. Lawton Chiles and Attorney-General Bob Butterworth have written jointly a letter to law enforcement officials. A copy of that letter is attached hereto as Exhibit 8 and made a part heresofar by reference. The conduct also intrudes into the plaintiffs rights of privacy, rights to maintain business relationships without malicious interference, rights not to be assaulted, stalked or harassed, right of reputation and right to work.

7. Operation Rescue and those acting in concert with it typically violate local and state laws as a part of their overall strategy. Defendant Terry emphasized earlier this year that "I will gladly break the law . . . " Defendant Rescue America has urged its followers to engage in conduct that will result in their arrest, and then to refuse

to cooperate with the instruction of law enforcement authority.

8. Operation Rescue, in its National Rescue Update, has indicated that "Holy Week rescues will take place this year in Central Florida" and it has invited its followers and co-conspirators to call the following phone number for further information: (407) 925-9557. Given their sheer numbers, and their willingness to violate the law and their calls for similar conduct by their sympathizers and supporters, there is a substantial threat that – absent intervention by this Court – the defendants will succeed in their efforts to overwhelm local law enforcement agencies and interfere with access to Aware Woman by its patients and staff.

9. Operation Rescue, and the other defendants who act in concert with them, have engaged in unlawful activities repeatedly in the past to effectuate "rescues." Not surprisingly, the courts of Florida, as well as those in New York, Pennsylvania, Washington, Oregon, Kansas, California, Maryland, Virginia, the District of Columbia and Texas have issued orders enjoining such illegal "rescues" and declaring Operation Rescue and those acting in concert with it to be involved in an unlawful conspiracy. Indeed, courts in Florida have issued injunctions against Operation Rescue in the Eighteenth and Ninth Judicial Circuits; a similar injunction imposing a protective perimeter around clinics and their patients was imposed by a court in Harris County, Texas against many of the parties involved in the activities in Brevard County.

10. In addition to establishing Plaintiffs' clear right to injunctive relief, the threats and activities of defendants also establish plaintiffs' entitlement to a protective order to prevent defendants from continuing their harassment of plaintiffs. Under the protective order, law enforcement should be empowered to:

a. place a trap on plaintiffs' telephone lines (at plaintiffs request) to obtain the telephone numbers of the persons engaged in telephone blockades and jamming of plaintiffs' phone lines;

b. arrest those who are stalking and harassing plaintiffs; and

c. assist the Court in enforcing its orders by means of civil contempt.

11. Finally, the actions of defendants constitute tortious interference with business relations, trespass, civil conspiracy and intentional infliction of emotional distress, assault, stalking, defamation and invasion of privacy. Accordingly, in addition to equitable relief, plaintiffs are each entitled to an award of compensatory damages from defendants. Furthermore, since the actions of defendants are willful and malicious, plaintiffs are entitled to an award of exemplary or punitive damages.

12. The activity by the defendants constitutes a clear threat to the substantial property and personal rights of the plaintiffs, the staff of the plaintiffs and the clients of the plaintiffs. The plaintiffs' rights are at immediate risk of irreparable injury if defendants are not restrained. Plaintiffs have no adequate remedy at law because, in the absence of injunctive orders of this Court,

defendants' unlawful conduct will continue to interfere with plaintiffs' constitutional statutory and common law rights. Accordingly, this Court should issue an amended Permanent Injunction and a Protective Order.

13. The relief that Plaintiffs seek is that already awarded by a court in Texas. A copy of that Injunction order has been provided to Court and Counsel. By means of an existing Temporary Injunction and Protective Order, the Courts of Texas have imposed a perimeter around the plaintiff clinics that created a buffer zone between the clinics and patients. Similar relief should be imposed between the homes of the individual plaintiffs and the defendants who target them in their homes. Accordingly, plaintiffs respectfully request that this Court enter the following orders and judgment as follows:

a. Modifying the Final Injunction entered in this case to provide additional clear statements relating to the conduct of the defendants and to provide a Protective Order;

b. Plaintiffs request that the Court restrain and enjoin the defendants, their officers, directors, agents and representatives, and all other persons – known or unknown – acting in their behalf or in concert with them, in any manner or by any means, from doing any of the following:

(1) Stalking plaintiffs, their patients, staff or employees as that term is defined in Florida Statutes Annotated Section 748.048.

(2) Trespassing on, sitting in, blocking, impeding or obstructing access to,

ingress into or egress from any part of any of the buildings in which the Planitiff [sic] clinics are operated, or at any of the addresses identified as the residence of plaintiffs, their staff or patients, including the entrances and exits to the buildings, the clinic parking lots, plaintiffs' driveways and residence parking lots.

(3) Congregating, picketing, patrolling or demonstrating within fifty (50) feet from the property line at which the Aware Woman or other Plaintiffs' facilities are located, including any parking lot or parking lot entrance, driveway or driveway entrance at any of the Plaintiffs' facilities;

(4) In addition to the 50 feet restriction set forth above, demonstrating on the sidewalks (or in the street) or engaging in other conduct within fifty (50) feet in any direction (or such other distance as the court may deem appropriate) from any building in which the Plaintiffs' facilities are operated, or at any of the addresses listed above, or in any way obstructing or interfering with pedestrian or vehicle traffic within such areas;

(5) Demonstrating within thirty (30) feet of any person seeking access to or leaving either the Plaintiff Clinics, or any of the addresses listed above, or the parking lots for the clinic or the driveways and parking lots of the homes of its owners, staff or patients of the clinic, or in any way impeding such person's access to

the clinic or entrance to or exit from the clinic, its parking lots or the homes.

(6) Physically abusing, grabbing, intimidating, harassing, touching, pushing, shoving, crowding or assaulting persons entering or leaving, working at or using services at the Plaintiff Clinics or trying to gain access to, or leave, any of the homes of owners, staff or patients of the clinic.

(7) Harassing, intimidating or physically abusing, assaulting or threatening any present, former or potential doctor, health care professional, or other staff member, employee or volunteer who assists in the provision of services at the Plaintiff Clinics.

(8) Congregating, picketing, patrolling or demonstrating within five hundred (500) feet of the residence of any of Plaintiffs' employees, staff, owners or agents, or using bullhorns or other sound amplification devices within twenty-five hundred (2500) feet of the residence of any of Plaintiffs' present, former or potential employees, physicians, health care providers, staff, owners or agents, or blocking or attempting to block, barricade or in any other manner obstruct the entrances, exits or driveways of the residences of Plaintiffs' present, former or potential employees, physicians, health care providers, staff, owners or agents and prohibiting defendants from inhibiting, impeding or attempting to impede the

free ingress and egress of persons to any street that provides the sole access to the street on which the residences are located.

(9) Attempting to take, or in any manner inducing, encouraging, directing, aiding or abetting others to take, any of the actions described in subparagraphs (a) through (g) above.

14. Plaintiffs do not seek and nothing in the Court's Order should state, or be construed to state, that Defendants and those acting in concert with them are limited, in any way, from lawfully exercising their First Amendment rights subject to these narrow and permissible time, place and manner restrictions on the manner in which such rights are exercised.

15. Plaintiffs also request that the Court's order contain provisions:

a. Ordering a trap on the telephone lines of the Aware Woman Center in order to identify those persons engaged in a phone blockade and jamming of the Clinic's phone lines;

b. Authorizing law enforcement authorities, pursuant to the protective provisions of the Court's order, to arrest those persons who are in violation of the injunction so that they may be held in contempt;

c. Authorizing clinic patients, owners and staff to conceal the license plate numbers on their cars so as to thwart the stalking;

d. Directing defendants to provide to the local law enforcement authorities, and to this Court, advance

notice of the location and time of any demonstration or other protest activity planned against the plaintiffs or any of the plaintiffs' residences, such notice to be provided at least 24 hours in advance of any such demonstration or activity;

e. Authorizing plaintiffs to mark, with spray paint or other identifiable markers, the perimeter of the injunction awarded by this Court so that enforcement of the injunction will be easier for both plaintiffs and defendants;

f. Authorizing the plaintiffs to put a sign giving notice of this Court's injunction orders and to use a loud speaker system or "bull horn" to inform demonstrators of the terms of injunction orders;

g. Stating that failure to comply with the Court's Order by any defendant or anyone acting in their behalf or in concert with them in any manner, after such notice, shall subject each person or entity to contempt fines, and to incarceration until the contemnor states that he or she will obey the lawful orders of this Court; and

h. Granting such other and further relief as the Court deems appropriate.

Plaintiffs also request that, upon final trial, they be awarded a permanent injunction and protective order identical in form and substance to that set out above,

together with actual and punitive damages, and their attorneys' fees and costs.

JERRI A. BLAIR
351 West Alfred Street
Tavares, Florida 32778
(904) 343-3755
Florida Bar No. 0525332

TALBOT D'ALEMBERTE
4000 Southeast Financial Center
Miami, Florida 33131
Florida Bar No. 017529
/s/ Talbot D'Alemberte
COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered by US or hand Mail to Christopher J. Weiss, Two South Orange Avenue, Orlando, Florida 32802, Sheila Rae Eschenberg, 221 Avenida De Paz, Indiatlantic, Florida 32903, Bruce Cadle, 701 Andrew Street, N.E., Palm Bay, Florida 32905, Patrick Mahoney, 1345 N.E. Fourth Court, Boca Raton, Florida 33432, and Randall Terry, RR 2, Box 196, Harpursville, New York 13787-9536, on this 22nd day of March, 1993.

/s/ Talbot D'Alemberte

Introducing The Next Phase Of The
Pro-Life Movement . . .

OPERATION GOLIATH

"Goliath" means the biggest, meanest, most threatening and best armored champion of the Philistines. When Goliath falls, the rest run.

For the battle is the Lord's, and He will deliver Goliath into our hands! (I Samuel: 17)

*** THERE IS NOT ROOM IN BREVARD COUNTY FOR CHILD KILLING AND THE CHURCH TO CO-EXIST.**

*** THEREFORE WE ARE DRAWING THE BATTLE LINES AND DECLARING AN ALL OUT "HOLY WAR".**

*** WE WILL BEGIN BY CALLING THE CHURCH AND THE COMMUNITY TO REPENT, AND TO BEGIN TO STAND UP FOR THE CHILDREN.**

*** WE WILL PRAYERFULLY, PEACEFULLY, NON-VIOLENTLY BEGIN TO PERSISTENTLY CONFRONT THE ABORTIONISTS, THE OWNERS, OPERATORS, AND EMPLOYEES OF AWARE WOMAN CHILD KILLING CENTER, BY PICKETING, RESCUE MISSIONS, STREET PREACHING, LITERATURE DIST., SIDEWALK COUNSELING, AND LAWSUITS TO ENCOURAGE THEM TO QUIT KILLING CHILDREN!**

*** WE WILL, AS ALWAYS, REACH OUT TO THE MOTHERS CRISIS PREGNANCIES, WITH THE LOVE OF CHRIST, OFFERING THEM HELP AND ALTERNATIVES.**

*** WE WILL CONTINUE UNTIL CHILDREN ARE SAFE FROM DEATH IN OUR COMMUNITY.**

*** THE GOAL OF OPERATION GOLIATH IS TO REMOVE CHILD KILLING FROM AMERICA, ONE TOWN AT A TIME.**

IF YOU BELIEVE ABORTION IS MURDER, THEN ACT LIKE IT. JOIN US AND THE KILLING WILL STOP!
(407) 723-4094

ATTENTION RESIDENTS OF BREVARD COUNTY!!! 20,000 innocent babies have been murdered through abortion in OUR COMMUNITY. THEIR INNOCENT BLOOD THAT HAS BEEN SHED POLLUTES OUR LAND!

Proverbs 6	Teaches that God hates the shedding of innocent blood, and that it is an abomination to Him.
Deuteronomy 21	Teaches that you don't have to shed innocent blood to be guilty of it, if you know innocent blood is being shed and you don't do anything, then you are guilty!
Leviticus 20	Teaches that if someone is sacrificing their children, the community is responsible to deal with that person.
Isaiah 1:15	Says that God won't even listen to our prayers because our hands are covered with blood!

WHAT CAN WE DO?

Isaiah 1:17	Tells us to seek justice and defend the fatherless!

Psalm 82:3&4	Tells us to defend the cause of the weak and fatherless, and to rescue the weak and needy, and deliver them from the hand of the wicked!
Proverbs 24:11	Tells us to rescue those who are unjustly sentenced to death, don't stand back and let them die!
Proverbs 31:8	Tells us to speak up for those who cannot speak up for themselves.
James 1:27	Tells us that pure religion in the sight of our God is to defend and take care of orphans in their distress.

Who is more of an orphan than a baby whose parents are giving it over to death?

This is not just a political, social, or personal cause, this is a matter of LIFE AND DEATH !!!

JOIN US EVERY WEDNESDAY AND SATURDAY AT AWARE WOMAN CHILD KILLING CENTER, TO RESCUE THOSE WHO ARE UNJUSTLY SENTENCED TO DEATH!

OPERATION GOLIATH
P.O. Box 100037
Palm Bay, FL 32910-0037

Are you Pro-Life but you're not sure what to do about it

Introducing the next phase of the Pro-Life movement . . .

OPERATION GOLIATH

When your children and grandchildren ask what you did when they were killing babies in America, what will you be able to say?

Come find out how you can be a part of a specific strategy to **put an end to abortion in our community.**

Monday, Jan. 21st, 7 pm New Life Church 1905 Westwood Blvd.

(Westwood Blvd. runs north off of New Haven, east of Dairy Rd. in Melbourne)

BREVARD COUNTY ISN'T BIG ENOUGH FOR CHILD KILLING AND THE CHURCH TO CO-EXIST

Prayer Vigil For The Unborn
Tuesday, Jan. 22nd, 8 am - 8 pm
AWARE WOMAN ABORTUARY
Join us on the 18th anniversary of the legalization of child killing in America, as we ask God to intervene in America's holocaust.

Sponsored by:
OPERATION GOLIATH
723-4094

WLAC ***Women's Legal Action Coalition***
P. O. Box 362384
Melbourne, FL 32936-2384

March 1, 1993

Karolyn Nichols
310 SEABREEZE DR
INDIALANTIC FL 32903-3013

Dear Karolyn,

Your vehicle was seen at the Aware Woman Clinic in Melbourne, Florida on December 23, 1992, a day when abortions were being performed. We are a group of concerned citizens organized specifically to help women having problems after an abortion. If you or your loved one are hurting after an abortion, please let us help. Many women have been damaged either physically or emotionally or both by abortion at the Aware Woman Clinic.

The following symptoms may indicate abortion related damage:

1. Heavy or continued bleeding
2. Severe cramping
3. Elevated temperature
4. Intense headaches
5. Depression, suicidal tendencies
6. Hallucinations, nightmares, etc.
7. Inability to get pregnant again
8. Inability to carry a baby to term, miscarriage, or premature birth

We have doctors here in Melbourne who can help with these problems. The Aware Woman Clinic's doctors come

from at least 60 miles away. Their doctors are there only on abortion days, usually Wednesday and Saturday. The people there on other days are not doctors, they are nurse practitioners or physician assistants. If you are hurting, see a doctor not a nurse or a practitioner.

If you have been hurt and don't feel comfortable calling us, please send in the enclosed Department of Professional Regulation (DPR) Uniform Complaint Form. The DPR will keep your complaint completely confidential. Many women who are hurt do not complain. If you do not complain, the DPR will not know that there is a problem and women will continue to be hurt. Please call the DPR at 1-904-488-6602 with any questions on filling out this form.

Sincerely yours,

Meredith Raney
(Phone 407-242-6925)

[SEAL]

DEPARTMENT OF PROFESSIONAL REGULATION

Lawton Chiles
Governor
George Stuart
Secretary

AUTHORIZATION FOR RELEASE OF PATIENT INFORMATION

TO: Any and all treating physicians or facilities

This document authorizes any and all licensed health care practitioners, including but not limited to: physicians, nurses, therapists, social workers, counselors, dentists, chiropractors, veterinarians, podiatrists, optometrists, hospitals, clinics, laboratories, medical attendants and other persons who have participated in providing any care or service to me, to discuss any communication, whether confidential or privileged, and to provide full and complete patient reports and records justifying the course of treatment including but not limited to: patient histories, x-rays, examination and test results, reports or information prepared by other persons that may be in your possession and all financial records, to the Florida Department of Professional Regulation (or any official representative of the Department) pursuant to Section 455.241, Florida Statutes.

This document authorizes the loan of any of the aforementioned reports and information to the Department of Professional Regulation (or any official representative of the Department) for reproduction, investigation or other use.

A photocopy of this document is as sufficient as the original.

_____ _____ _____ _____
Patient Signature D.O.B. Social Sec. No. DATE

_____ _____
Authorized Person Other Than Patient — Relationship

Sworn to and subscribed to before me this ___ day of _____, 19___

_____
NOTARY PUBLIC

My commission expires: _____

_____
Witness Signature
(if not notarized)

FOR OFFICIAL USE ONLY
OFFICE _____ ID NO. ___

DPR/REG FORM 390 0392

_____

[LOGO]

DEPARTMENT OF PROFESSIONAL REGULATION

UNIFORM COMPLAINT FORM

Please return to: DPR Consumer Complaints
Northwood Centre,
1940 N. Monroe Street
Tallahassee, FL 32399-0782

Ph. (904) 488-6602

Type or Print	*Contact (other than yourself)*
Your Name: _____	Name: _____
Address: _____	Address: _____
_____	_____
_____ (Zip)	_____ (Zip)
Telephone ( ) _____ Business	Telephone( ) _____
( ) _____ Residence	
Your Occupation: _____	

SUBJECT OF COMPLAINT

Name: _____
Person and/or Company

Address: _____

_____

City: _____

ZIP: _____

_____

Telephone ( ) _____

Occupation: _____

State: _____

License # (if known): _____

Have you contacted subject concerning complaint?

[ ] Yes [ ] No Date: _____

Private Attorney

(if applicable) _____
Name Address

( ) _____
Telephone City State Zip

Witnesses (Please give full name and addresss [sic])

_____

_____

_____

_____

_____

Please see other side

DPR/REG 001 (Rev. 09/90)

WLAC Women's Legal Action Coalition
P.O. Box 362384
Melbourne, FL 32936-2384

March 1, 1993

Judy Boyce
4522 RIVERMIST DR
MELBOURNE FL 32935-0000

Dear Judy,

Your vehicle was seen at the Aware Woman Clinic in Melbourne, Florida on January 30, 1993, a day when abortions were being performed. We are a group of concerned citizens organized specifically to help women having problems after an abortion. If you or your loved one are hurting after an abortion, please let us help. Many women have been damaged either physically or emotionally or both by abortion at the Aware Woman Clinic.

The following symptoms may indicate abortion related damage:

1. Heavy or continued bleeding
2. Severe cramping
3. Elevated temperature
4. Intense headaches
5. Depression, suicidal tendencies
6. Hallucinations, nightmares, etc.
7. Inability to get pregnant again
8. Inability to carry a baby to term, miscarriage, or premature birth

We have doctors here in Melbourne who can help with these problems. The Aware Woman Clinic's doctors come from at least 60 miles away. Their doctors are there only on abortion days, usually Wednesday and Saturday. The

people there on other days are not doctors, they are nurse practitioners or physician assistants. If you are hurting, see a doctor not a nurse or a practitioner.

If you have been hurt and don't feel comfortable calling us, please send in the enclosed Department of Professional Regulation (DPR) Uniform Complaint Form. The DPR will keep your complaint completely confidential. Many women who are hurt do not complain. If you do not complain, the DPR will not know that there is a problem and women will continue to be hurt. Please call the DPR at 1-904-488-6602 with any questions on filling out this form.

Sincerely yours,

/s/ Meredith Raney
Meredith Raney
(Phone 407-242-6925)

Dear Brothers and Sisters in Christ:

As some of you may know, I have taken a step into full-time pro-life ministry! I have felt for a long time, that someone should be dedicated full-time in leading this battle in our community and God has led me to be the one. In preparation for this step, I have attended national pro-life leadership conferences in New York, Washington D.C., Atlanta, Houston, and Chicago.

I am currently serving as director of *PRO-LIFE ACTION MINISTRIES* director of OPERATION GOLIATH, and a board member of Shepherding Home

Ministries. My activities basically involve overseeing a variety of pro-life activities, such as sidewalk counseling, picketing, rescues, and special events such as rallies, life-chains. . . .

We are in highly pivotal times. I believe we will either win or lose this battle for life, depending on how we respond now. Scripture teaches that even though God's people abandoned His commands, and even though they shed innocent blood which polluted their land, that because of God's great lovingkindness, when a remnant of His people cried out, repented, and sought His face, He delivered them! If we want to see God heal our land, we must turn from our wicked ways (apathy, materialism, selfcenteredness) and pray for God to have mercy on us.

Most people don't think of someone being a missionary in their own community, but that's really what I'm doing, being a missionary to the pre-born. 20,000 babies have died through abortion in Brevard County, and over 1,000 per year are still being murdered. I want to see our community completely rid of childkilling!

I need your help. I need to raise all of my support for this work. I have already raised 1/3 of our monthly support from my church, (Covenant Presbyterian). I need to raise the rest of my support from you, our pro-life brothers and sisters in the Lord. *Can you help us today?* We need immediate help to be able to serve in this ministry. I know times are tough, but even if each of you could help with just a small monthly gift, our needs could be met. No amount is too small, and no amount is too large either. Any amounts above our personal needs will go

straight to the ministry needs. Your support for us will not only affect our area, but our state and nation as well as I am working to assist other groups around Florida, and I am working with national leaders as well.

Whether you can help us financially or not, PLEASE PRAY FOR US ON A REGULAR BASIS! Without your prayers we will not survive.

In His Service,
/s/ Bruce Cadle
Bruce Cadle

INTRODUCING:

IMPACT TEAMS

We are looking for Christians who are

SERIOUS

about making a difference, about what it's about seeing their lives count.

We are looking for Christians with an

ATTITUDE

of righteousness, an attitude of victory, and an attitude of team work.

We are looking for Christians who want to be a

PROBLEM

to the kingdom of darkness and the liberal pro-death agenda.

WE ARE LOOKING FOR CHRISTIANS WITH A SERIOUS ATTITUDE PROBLEM!

IMPACT Teams stands for: *I*nstitute of *M*obilized *P*rophetic *A*ctivated *C*hristian *T*raining. They will be a powerful weapon in our battle against the powers of darkness as well as a life-changing experience for those who participate.

If you are serious about developing your Christian character so you can be equipped to fulfill God's purpose for your life, if you are willing to be a team player, to share your life and talents for this and the next generation, then you should consider being a part of IMPACT Teams.

Each IMPACT Team will be an outreach of Operation Rescue [illegible] in conjunction with the lo[illegible]national [illegible] help equip, train and lead these groups into true spiritual warfare.

Each IMPACT Team will be selected to bring together a complimentary team that will function as a [illegible]

Each IMPACT Team will [illegible] vision to serve [illegible] groundwork [illegible]

Each IMPACT Team will [illegible] academics [illegible] ministry so that it can continue to advance [illegible] missionaries [illegible]

Can you imagine being part of a team that will give witness to Jesus Christ every day? One day you may make a house call, one day be sidewalk counselling, and, of course, the threat of rescue will hang over the killers' heads every day, because you will be there. In between street activities you will learn from key Christian leaders who have been used of God in various way to impact our nation. This is like a Bible school with wheels, not only a place to learn and grow as a Christian, but to *do*!

HOW DO YOU JOIN AN IMPACT TEAM?

Tear off the attached application and return it to us along with a $25 registration fee. After we receive your initial information and it is screened you will receive a more detailed application. You will then be notified of opportunities to join an IMPACT Team.

WHO ARE IMPACT TEAMS AVAILABLE TO?

Teens from the age of 16 up to those young in spirit. Both singles and families will be able to participate.

WHAT IS THE COST?

You will be responsible for your transportation to and from the location and any other personal items or existing personal financial obligations. Each teammate will augment their housing and food cost by committing $50.00 per week for the 12-week period.

HOW LONG DOES AN IMPACT TEAM LAST?

Each IMPACT Team commits for 12 weeks, which includes [illegible] training and ministry equipping.

TRAINING A NEW GENERATION OF LEADERS!

PRELIMINARY APPLICATION

YES! I am interested in joining an IMPACT Team!

☐ IMPACT Team #1:
January 18 - April 9
Central Florida

☐ IMPACT Team #2
June 14 - September 3
Location to be announced

First Name: _____

Last Name: _____

Address: _____

City: _____

State: _____ ZIP: _____

Phone: _____

Marital Status _____ Age: _____

Occupation: _____

Please Return this completed form to:

OPERATION RESCUE NATIONAL
P.O. Box 127, Summerville, SC 29484
(803) 821-8441

OPERATION Rescue NATIONAL

The plans for the Republican Convention in Houston are in full swing. Operation G.O.P. (Guard Our Pre-born) will be held August 11-21. Many pro-life activities, including rescue, will be held. CAN YOU COME? Please contact (714) 761-5117 for further information. Don't miss this opportunity to be a prophetic witness to our nation.

As the pro-life forces grow, we are facing a *serious* need for fresh and better trained leadership. For this purpose, Operation Rescue National is announcing the first IMPACT (Institute of Mobilized Prophetic Activated Christian Training) Team to be held in Florida. January, 1993. The second team will be sent to a midwestern city in the Summer of 1993.

If the rescue movement does not have a *plan to win,* it is *planning to lose.* The IMPACT team concept is the most aggressive plan ORN has ever undertaken. Pro-life leaders from around the country will take 100 people in two groups of 50, to train them to be a part of a whole new generation of leaders – people who not only understand the battle, but are equipped to win it. They must be willing to commit for 12 weeks to get the training needed to be a prophetic leader.

As you can imagine, the cost of undertaking something of this magnitude will be extraordinary by our standards, but the cost of not doing it in terms of human life would be unbearable. There is no choice – leaders must be trained for the fierce battles that lie ahead of them. Housing, feeding and training people will be an incredible challenge, but there is not a better investment that we could make. We are counting on you to help. The estimated cost per person will be about $150.00 per week.

Each future leader will pay $50.00 of that cost. That leaves $100.00 per person per week that needs to be made up. The people who come to this training will be giving up jobs and homes to get trained for the battle. I am asking you to adopt them as missionaries and ambassadors of life and liberty.

The goal, is to turn the Summer of Purpose into a lifetime – a lifetime for the thousands of children that are scheduled to die each day in our nation and *a lifetime of purpose* for the Christians and the sleeping Church. Please seize this opportunity to train up the next generation of leaders!

In the Master's Service,

/s/ Keith
Rev. Keith Tucci
Executive Director
Operation Rescue National

P.S. There are various needs that the IMPACT Teams have. If you can help with any of these, please contact 803-821-8441. We need a motor home, several buses, several vans, and several cars. We are also in need of all types of office equipment: computers, printers, telephones, adding machines, typewriters, copier, shredders, refrigerator, microwave and various other items.

[SEAL] LAWTON CHILES
GOVERNOR

STATE OF FLORIDA

Office of the Governor

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-0001

March 12, 1993

The Honorable Scott Lancaster
Sheriff, Clay County
Post Office Box 548
Green Cove Springs, Florida 32043

Dear Sheriff Lancaster:

The recent homicide of a physician in Pensacola will likely heighten tensions surrounding protests directed at abortion clinics. Regardless of how any individual may feel about this most divisive of social issues, violence must be condemned and prevented. This is not an acceptable method for dispute resolution.

Florida must recognize First Amendment rights for free speech and assembly, but we must also protect the rights of people to use legal medical facilities.

In the days and weeks ahead, your deputies and officers may be called upon to respond to potentially volatile situations. For this reason, we would like to note some of the statutes that may be of use in addressing these situations:

Section 836.05 – Threats; extortion.

It is a second degree felony to maliciously threaten an injury to a person, property or reputation of another

person by means of written or printed communication. Where individuals have received hate mail or had their public property vandalized by means of graffiti spelling out threatening messages the statute may be useful.

Section 836.10 – Written threats to kill or do bodily injury; punishment.

This statute provides that it is a felony of the second degree to write or compose and send or direct the sending of a threatening communication to another person.

Section 838.021 – Corruption by threat against public servant.

Any person who threatens to unlawfully harm a public servant or their family member or other person in whose welfare the public servant is interested is guilty of a felony of the third degree. If the person actually harms the public servant or another person, the felony becomes one of the second degree. This provision may be useful if undue influence is utilized against any public officer or employee of government, whether they are elected or appointed to office, including but not limited to judges, county commissioners, or members of the Executive Branch if such activity is undertaken in an effort to frustrate or influence the performance of a public duty. In situations whereby health inspectors are seeking to inspect clinics and are subject to harms or threats to themselves or to their families this provision would be applicable.

Chapter 843 – Obstructing justice.

This includes the offenses of resisting an officer with violence to his person and resisting an officer without

violence to his person. These provisions are self-explanatory.

Chapter 784 – Assault and battery, culpable negligence.

Obviously, intentional unlawful threats by word or act to do violence to the person of another coupled with an apparent ability to do so followed by some act which creates a well-founded fear in another person constitutes a second degree misdemeanor under Section 784.011. If an assault is committed with a deadly weapon, the penalty is raised to a felony in the third degree. Section 784.03 and 784.045 cover instances of battery or aggravated battery. Perhaps not as well-known is a fairly recent enactment of the Legislature, Section 784.06 which includes the ability of a victim of repeat violence to obtain a protective injunction and outlines the powers and duties of the court. While this section is directed towards repeat acts of domestic violence, it does contain language outlined in subsection 2(a) allowing *any person* who has been victimized repeatedly to proceed to circuit court, file a sworn petition and obtain an injunction.

Chapter 806 – Arson and criminal mischief.

Given the unfortunate prior incident of fire bombing in the Pensacola area and other acts of violent acts against property, your officers should be made aware of the provisions of Chapter 806 regarding arson, criminal mischief, fire bombs and the prevention or obstruction of extinguishment of a fire. The range of penalties outlined under Chapter 806 span from misdemeanor to felonies of the second degree.

Chapter 810 – Burglary and trespass.

Your officers will commonly be confronted by individuals who willfully trespass upon private property. While trespassing is generally a misdemeanor offense, it is a felony of the third degree if the trespasser is armed with a firearm or other dangerous weapon during the commission of the offense.

Section 837.05 – False reports to law enforcement authorities.

This provision makes it a first degree misdemeanor to knowingly give false information to any law enforcement officer concerning the alleged commission of any crime. Should officers be involved in attempting to sort out participants in a maylay [sic] and be misled by potential witnesses or other parties to the dispute, this would be an available mechanism to assist law enforcement.

Section 784.048, F.S. 1992 – Stalking.

This relatively new provision to Florida law provides a variety of punishments that can be imposed against individuals who harm others by engaging in a course of conduct that causes substantial emotional distress in the person targeted for no legitimate purpose and also creates a felony of the third degree for any person to willfully, maliciously and repeatedly harass another person and make a credible threat with the intent to place the victim in reasonable fear of death or bodily injury. Additionally, if an injunction has been obtained as outlined in Section 784.046, as discussed above, or after any other court-imposed prohibition of conduct towards a subject

person or persons or that person's property, there continues a course of conduct which includes knowing, willfull, malicious and repeated harassment of another person. There is a violation of the offense of aggravated stalking which is a third degree felony. Lastly, and significantly, subsection (5) of this law provides "any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section." NOTE: Section 748.048(1)(a), (b) (2) and (5) have been declared unconstitutional in Broward County.

The Florida Department of Law Enforcement and the Office of the Attorney General are available to assist you with training and providing expertise in how to appropriately apply these statutes to unlawful acts regarding the clinics, their staffs and members of the public visiting them. You may contact FDLE Commissioner Tim Moore for further information on these training opportunities.

We pledge the full support of the Office of the Governor and the Office of the Attorney General in assisting you in your duties in regard to these problems. It is our expectation that those of you on the front line of law enforcement will rise to the challenges which surround the abortion issue and that your efforts to maintain the peace can be accomplished without risking harm to your officers and deputies and private citizens.

Sincerely,

/s/ Lawton Chiles
Lawton Chiles
Governor

/s/ Robert A. Butterworth
Robert A. Butterworth
Attorney General

LC/RAB/dmn

IN THE CIRCUIT COURT
OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

CASE NO.: 91-2811-CA-16-K

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., ET AL.,

Petitioners,

vs.

OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, SHIRLEY HOBBS, JUDY MADSEN, ET AL.,

Respondents.

_____/

AMENDED PERMANENT INJUNCTION

THIS CAUSE came before the court for hearing on the motion of petitioners for sanctions and modification of the permanent injunction entered by this court, (The Honorable Wallace H. Hall), dated September 30, 1992, and the court having taken three days of testimony and having carefully considered the evidence and the legal arguments makes the following findings:

A. That despite the injunction of September 30, 1992, there has been interference with ingress to the petitioners' facility known as the Aware Woman Clinic located on the northwest corner of U.S. Highway One and Dixie Way in the City of Melbourne, Brevard County, Florida. The interference to ingress has taken the form of

persons on the paved portions of Dixie Way, some standing without any obvious relationship to others; some moving about, again without any obvious relationship to others; some holding signs, some not; some approaching, apparently trying to communicate with the occupants of motor vehicles moving on the paved surface; some marching in a circular picket line that traversed the entrance driveways to the two parking lots of the petitioners and the short section of sidewalk joining the two parking lots and then entering the paved portion of the north lane of Dixie Way and returning in the opposite direction. (See drawing attached.) Other persons would be standing, kneeling and sitting on the unpaved shoulders of the public right-of-way. As vehicular traffic approached the area it would, in response to the congestion, slow down. If the destination of such traffic was either of the two parking lots of the petitioners, such traffic slowed even more, sometimes having to momentarily hesitate or stop until persons in the driveway moved out of the way.

B. The number of people on any one day would vary from a handful to a crowd of four hundred. The composition of the crowd would include some of the named respondents in this cause; some persons who were loosely associated with the respondents' organizations, Operation Rescue and Operation Goliath; some who were present in support of the clinic (pro-choice); some law enforcement officers engaging in crowd and traffic control (from five officers on light days to as many as fifty officers on other days); and some representatives of the print and television media. The frequency with which persons would appear at this location would range from

once a week to three times a week with the largest gatherings usually on Saturdays.

C. Associated with such gatherings would be noise emanating from singing, chanting, whistling, loudspeakers on the exterior of the clinic broadcasting music, individual portable radios (boom boxes), and occasional bullhorns. Individuals of the partisan groups would shout and yell at each other, frequently approaching so closely as to be in each other's face trying to out-sound the other, occasionally using boom boxes at full volume as an assist.

D. The Melbourne Police Department officers on the scene on some occasions erected temporary barricades (saw horse type) in an effort to put some distance between the partisan groups. The respondents and those aligned with them, remained primarily in the public right of way (paved and unpaved). The pro choice people would be on the edge of the clinic's lawn and parking lot (private property) but occasionally attempting to share the sidewalk with the opposition. On at least one occasion in order to give more room for people, the police barricaded the north lane of Dixie Way so that two-way vehicular traffic was confined to the single south lane.

E. As traffic slowed on Dixie Way and began its turn into the clinic's driveway, the vehicle would be approached by persons designated by the respondents as sidewalk counselors attempting to get the attention of the vehicles' occupants to give them anti-abortion literature and to urge them not to use the clinic's services. Such so-called sidewalk counselors were assisted in accomplishing their approach to the vehicle by the hesitation or

momentary stopping caused by the time needed for the picket line to open up before the vehicle could enter the parking lot.

F. The clinic has fences on its west and north side, and persons would occasionally place a ladder on the outside of the fence and position themselves at an elevation above the fence and attempt to communicate by shouting at persons (staff and patients) entering the clinic. On one occasion the communication to a clinic staff person took the form of an attempt to invoke the wrath of God by shouting, "I pray that God strikes you dead now!"

G. On other occasions since the entry of the injunction on September 30, 1992, the respondent, Cadle, and others in concert with him approached the private residences or temporary lodging places of clinic employees. These approaches included not only direct communication with the occupants (sometimes the "home alone", minor children of the occupants), but also carrying signs, walking up and down on the sidewalk or street in front of the residence, shouting at passers-by, contacting (ringing doorbells of) neighbors, and providing literature identifying the clinic employee as a "baby killer."

H. On one occasion the respondent, Cadle, with others went to the vicinity of the motel where a staff physician was temporarily staying and demonstrated. While respondent, Cadle, remained outside just off the premises of the motel, others went upon the premises of the motel, some entering the motel lobby, yelling "child murderer" and "baby killer." The doctor testified that as a

result of such activity his departure for the clinic was delayed by one-half hour.

I. The same staff physician testified that on one occasion while he was attempting to enter the parking lot of the clinic, he had to stop his vehicle and remained stopped while respondent, Cadle, and others took their time to get out of the way and while doing so were yelling and screaming at the doctor, "Baby killer" – "We don't want you here in Melbourne." This physician also testified that he witnessed the demonstrators running along side of and in front of patients' vehicles, pushing pamphlets in car windows to persons who had not indicated any interest in such literature. As a result of patients having to run such a gauntlet, the patients manifested a higher level of anxiety and hypertension causing those patients to need a higher level of sedation to undergo the surgical procedures, thereby increasing the risk associated with such procedures. The doctor also testified that the noise of singing, chanting, shouting and yelling could be heard through the walls of the clinic and caused stress in the patients during surgical procedures and while recuperating in the recovery rooms. The doctor also testified that he observed some patients turn away from the crowd in the driveway to return at a later date. He testified that such delay in undergoing the procedures also increased the risk associated therewith.

J. On another occasion the doctor was followed as he left the clinic by a person associated with the respondents who communicated his anger to the doctor by pretending to shoot him from the adjoining vehicle. As a result of the foregoing demonstrations and activities, and after a physician similarly employed was killed by an

antiabortionist at a clinic in North Florida, this doctor terminated his employment with the clinic.

K. Further the testimony of witnesses shows:

1. That license tag numbers of the clinic's patients are recorded by the respondents or persons in concert with them and then are traced through state records to obtain the home address of such persons who are subsequently contacted by the respondents.

2. That on occasion repeated, nearly simultaneous, multiple telephone calls are made to the clinic, jamming its telephone lines. The jamming of the clinic's telephone system, makes it impossible for clinic staff to summon an ambulance to transfer any patient to the hospital should an emergency arise.

3. That patients and staff are sometimes followed in a stalking manner when they leave the clinic, giving such persons a feeling of great apprehension.

Conclusions

A. That the actions of the respondents and those in concert with them in the street and driveway approaches to the clinic of the plaintiffs continue to impede and obstruct both staff and patients from entering the clinic. The paved surfaces of the public right-of-way must be kept open for the free flow of vehicular traffic.

B. That the noise associated with the demonstrations impermissibly interferes with the operation of the clinic and the well-being of its patients and should be limited and restrained.

C. That the actions of the respondents and those acting in concert with them directed at the residences (including the temporary motel residence) of the clinic staff is impermissible conduct and should be limited and restrained. A person's home is his last place of refuge and his right of privacy therein should be protected. A place of business, not involved in the controversy of others, should not be subjected to demonstrations that interfere with business customers.

D. That the actions of the respondents and those acting in concert with them in respect to interfering with the telephone service of the clinic is impermissible and should be restrained.

E. That the uninvited contacts, shadowing and stalking by the respondents and those acting in concert with them of the clinic staff and patients are impermissible conduct and should be restrained.

F. That the rights of the respondents to demonstrate, speak and make known their views should be recognized and protected.

It is, therefore

ORDERED AND ADJUDGED that the respondents, Operation Rescue, Operation Rescue America, Operation Goliath, their officers, agents, members, employees and servants, and Ed Martin, Bruce Cadle, Pat Mahoney, Randall Terry, Judy Madsen, and Shirley Hobbs, and all persons acting in concert or participation with them, or on their behalf, with notice in any manner or by means of

this order (hereinafter referred to generally as respondents) are permanently enjoined from engaging in the following:

(1) At all times on all days, from entering the premises and property of the Aware Woman Center for Choice, Inc. Clinic (hereinafter Clinic) located at the northwest corner of U.S. Highway One and Dixie Way in Melbourne, Brevard County, Florida.

(2) At all times on all days, from blocking, impeding, inhibiting, or in any other manner obstructing or interfering with access to, ingress into and egress from any building or parking lot of the Clinic.

(3) At all times on all days, from congregating, picketing, patrolling, demonstrating or entering that portion of public right-of-way or private property within thirty-six (36) feet of the property line of the Clinic. The 36 foot buffer on the south side of the Clinic is demarcated by the south edge of paved surface of Dixie Way. It is the intent of the court that the respondents may use, subject to other restrictions contained herein, the unpaved portion (the shoulder) on the south side of Dixie Way. A drawing is attached hereto showing the various areas and lines. An exception to the 36 foot buffer zone is the area immediately adjacent to the Clinic on the east, lying in the right-of-way of U.S. Highway One. This area is composed of a flat shoulder area rising up an embankment to the easterly property line of the Clinic. The respondents may enter the shoulder area of U.S. Highway One, but may not go up the embankment and must remain at least five (5) feet from the Clinic's east line. Another exception to the 36 foot buffer zone relates to the record title owners

of the property to the north and west of the Clinic. The prohibition against entry into the 36 foot buffer zone does not apply to such persons and their invitees. The other prohibitions contained herein do apply, if such owners and their invitees are acting in concert with the respondents. Another exception to the 36 foot buffer zone relates to the area of the pedestrian crosswalk near the area where Dixie Way enters into U.S. Highway One. The testimony before the Court revealed that such crosswalk is not presently marked by customary white lines. It is the request of this court, in order to assist the parties in complying with this injunction, that the City of Melbourne establish a crosswalk area at the eastern end of Dixie Way in customary manner by applying painted lines on the surface of the pavement. Until such lines are applied, the respondents may use an area of the paved surface of Dixie Way as a crosswalk, but must confine their use of such area to a strip of pavement eight (8) feet wide, running directly from the south edge of Dixie Way to the north edge thereof, the westerly line of such strip being coextensive with the western right-of-way line of U.S. Highway One. (See drawing attached.) After painted lines are applied, the respondents must not enter any portion of the paved surface of Dixie Way outside of the crosswalk within the 36 foot buffer zone. The respondents use of the crosswalk must be limited to the prompt crossing of the street. The crosswalk may not be used as an area of picketing, congregating or demonstrating. The respondents use of the crosswalk must not inhibit or impede the free flow of traffic on Dixie Way, and no stopping or hesitation in the crosswalk shall be allowed.

(4) During the hours of 7:30 a.m. through noon, on Mondays through Saturdays, during surgical procedures and recovery periods, from singing, chanting, whistling, shouting, yelling, use of bullhorns, auto horns, sound amplification equipment or other sounds or images observable to or within earshot of the patients inside the Clinic.

(5) At all times on all days, in an area within three-hundred (300) feet of the Clinic, from physically approaching any person seeking the services of the Clinic unless such person indicates a desire to communicate by approaching or by inquiring of the respondents. In the event of such invitation, the respondents may engage in communications consisting of conversation of a non-threatening nature and by the delivery of literature within the three-hundred (300) foot area but in no event within the 36 foot buffer zone. Should any individual decline such communication, otherwise known as "sidewalk counseling", that person shall have the absolute right to leave or walk away and the respondents shall not accompany such person, encircle, surround, harass, threaten or physically or verbally abuse those individuals who choose not to communicate with them.

(6) At all times on all days, from approaching, congregating, picketing, patrolling, demonstrating or using bullhorns or other sound amplification equipment within three-hundred (300) feet of the residence of any of the petitioners' employees, staff, owners or agents, or blocking or attempting to block, barricade, or in any other manner, temporarily or otherwise, obstruct the entrances,

exits or driveways of the residences of any of the petitioners' employees, staff, owners or agents. The respondents and those acting in concert with them are prohibited from inhibiting or impeding or attempting to impede, temporarily or otherwise, the free ingress or egress of persons to any street that provides the sole access to the street on which those residences are located.

(7) At all times on all days, from physically abusing, grabbing, intimidating, harassing, touching, pushing, shoving, crowding or assaulting persons entering or leaving, working at or using services at the petitioners' Clinic or trying to gain access to, or leave, any of the homes of owners, staff or patients of the Clinic (unless permitted by "invited contact" as defined on page 10 of this order).

(8) At all times on all days, from harassing, intimidating or physically abusing, assaulting or threatening any present or former doctor, health care professional, or other staff member, employee or volunteer who assists in providing services at the petitioners' Clinic.

(9) At all times on all days, from encouraging, inciting, or securing other persons to commit any of the prohibited acts listed herein.

ORDERED AND ADJUDGED that nothing herein shall restrict duly constituted law enforcement authorities from providing traffic control and regulation and measures necessary to insure public safety and the protection of both public and private property.

ORDERED AND ADJUDGED that any City of Melbourne police officer or other person authorized to serve process may serve a copy of this order on any

individual who may not have otherwise received notice of the order. Such officer may read the operative prohibitory language of this order to any individual who is without notice of this order, and such service or oral notice shall subject the person so served or noticed to the sanctions provided for herein for failure to comply herewith. If the authorities of the City of Melbourne determine that it would assist them in enforcing this order to erect in the public right-of-way a notice that the use of the area specified herein as a buffer zone is subject to court order, they are authorized to do so. Such signs may contain the following language or words of similar import: "WARNING. Demonstrations and picketing in this area are limited by court order. Violators of this court order are subject to arrest. See Amended Permanent Injunction dated April 8, 1993, filed in Case No. 91-2811-CA-16-K, Circuit Court, 18th Judicial Circuit, Seminole County, FL. Copies of the Amended Permanent Injunction are posted at Brevard County Branch Courthouse, 50 S. Neiman Ave., Melbourne, FL; Sarno Complex, 1515 Sarno Road, Melbourne, FL; and Melbourne City Hall, 900 E. Strawbridge Ave., Melbourne, FL."

ORDERED AND ADJUDGED that, in order to provide for the protection of the owners, staff and patients of the Clinic and to prevent the further disruption of the operation of the Clinic, the court hereby enters the following additional orders:

a. Law enforcement officers and Southern Bell Telephone Company are authorized, upon request of the Clinic owners to place a trap on the telephone lines of the Aware Woman Center in order to identify those persons

engaged in a phone blockade and jamming of the Clinic's phone lines.

b. Law enforcement authorities, pursuant to the protective provisions of the court's order, are authorized to arrest those persons who appear to be in willful and intentional disobedience of this injunction. Upon such arrest the person so arrested shall be admitted to bail upon the posting of a $500 cash or surety bond, which bond will be returnable before the undersigned judge at his chambers, Room N327, Seminole County Courthouse, 301 N. Park Avenue, Sanford, FL at 8:30 a.m. on the seventh (7th) day after arrest exclusive of weekends and holidays. Any county or circuit judge in Brevard County is authorized to modify, upward or downward, the dollar amount and the return date of such bond upon good cause being shown. In the event of arrest and no bond being posted, the person arrested shall be promptly transferred to the Seminole County jail and the undersigned judge shall be immediately notified by the arresting officer and Seminole County jailer of such confinement. Such arrested persons shall be brought before the undersigned judge not later than 8:30 a.m. of the day following his confinement in the Seminole County jail.

ORDERED AND ADJUDGED that at all times on all days, respondents shall have the right to congregate, demonstrate and freely express themselves outside the Clinic buffer zone subject to the noise limitations on the days of surgical procedures set out in paragraph 4 of this order and subject also to all other provisions of this order and any other restraining orders and injunctions that may have been issued by other courts.

ORDERED AND ADJUDGED that at all times on all days, respondents will have the right of invited contact with persons protected hereby so long as it is outside of the Clinic buffer zone. "Invited contact" is defined as conduct by the person sought to be contacted which affirmatively indicates a desire to engage in conversation or to receive literature. Such affirmative indication may include where the person sought to be contacted physically approaches the respondent, or where such person extends his or her hand to receive literature, or speaks words indicating a positive interest in what the respondent is saying. Such invited contact by a person protected hereby as it relates to a contact at such persons residence is limited to conduct transmitted by the resident to a respondent at a distance from and at a time prior to the contact and shall not include the uninvited ringing of a doorbell or knock on a door. Any invited contact may be canceled by such person by words spoken that indicate a desire to end the contact, such as "stop", "withdraw", "back off", "get away", "leave me alone" or words or actions of similar import. Where such desire to end the contact is made known to a respondent, he/she must immediately terminate the contact and leave the presence of the person protected hereby.

ORDERED AND ADJUDGED that the permanent injunction of this court issued September 30, 1992, shall remain in full force and effect as to all persons and entities and places mentioned therein except as hereby modified.

Attached hereto and made a part hereof is a drawing which shows the Clinic buffer zone referred to in this order.

DONE AND ORDERED in Sanford, Seminole County, Florida this 8th day of April, 1993.

/s/ Robert B. McGregor
ROBERT B. MCGREGOR, Circuit Judge

Copies furnished to:

Talbot D'Alemberte, 215 S. Monroe St., Suite 601, Tallahassee, FL 32301

Kathy Patrick, 1100 Louisiana, Suite 3400, Houston, TX 77002

Jerri A. Blair, 351 W. Alfred St., Tavares, FL 32778

Christopher J. Weiss, Two S. Orange Ave., Orlando, FL 32802

Sheila Rae Eschenberg, 221 Avenida De Paz, Indiatlantic, FL 32903

Bruce Cadle, 701 Andrew St., N.E., Palm Bay, FL 32905

Patrick Mahoney, 1345 N.E. Fourth Court, Boca Raton, FL 33432 and at 613 Second Street, N.E., Washington, DC 20002

Randall Terry, RR2, Box 196, Harpursville, NY 13787-9536

by /s/ Doris D. Brady
Judicial Assistant

Date: April 8, 1993

NOT TO SCALE

INDICATES BUFFER ZONE

SHOULDER 4.5.1

EAST PROPERTY LINE

NORTH EDGE OF DIXIE WAY RIGHT-OF-WAY AND SOUTH PROPERTY LINE

SHOULDER 4.5.1

CROSSWALK

SOUTH E OF DIXIE RIGHT-O

25'

WOODED AREA

31'

34'

3'

DIRT ACCESS

67'

13'

DIXIE WAY

7'

DIRT ACCESS

WOODED AREA

AWARE WOMAN EAST PARKING LOT (PAVED)

42'

41'

SOUTH ED OF PAVED SURFACE DIXIE WA

36'

10' DIRT ACCESS

AWARE WOMAN CLINIC

SIDEWALK

SIDEWALK

41'

32'

10' PRIVATE DRIVEWAY

NORTH PROPERTY LINE

AWARE WOMAN WEST PARKING LOT (PAVED)

40'

36'

36'

51'

15

WEST PROPERTY LINE

SOUTH ED OF PAVED FACE OF DI WAY

SOUTH OF DIXIE

36'

36'

EXCERPTS FROM THE APRIL 12, 1993 APPEARANCE HEARINGS HELD BEFORE JUDGE MCGREGOR EIGHTEENTH JUDICIAL CIRCUIT, SEMINOLE COUNTY, FLORIDA

[Page 40, line 7 through page 44, line 7]

JANE DOE NO. 6: I do have a question, too. I'm confused as to why the people who were blockading the clinic who had pro-choice signs were not arrested along with me. They – it appeared to me they were violating the same injunction I was, you know –

THE COURT: The Injunction is directed only against certain named Defendants, certain named organizations and those acting in concert with them. Presumably, as you say, the other side would not have been acting in concert with the named Defendants.

JANE DOE NO. 6: But I was in concert with nobody. I was just an American citizen, defending the right to assemble and to demonstrate.

THE COURT: Again, perhaps, that would be a matter of defense that you would present at the time of trial.

JANE DOE NO. 6: So the Injunction only applies to people who are pro-life?

THE COURT: That's –

JANE DOE NO. 6: Is that fair? Is it Judge?

THE COURT: Well, the Court conducted three days of testimony and it determined that, you know, the prior injunction of the Court had been violated by denying access to the clinic by the activities conducted in the front

of the clinic. And that is why the Court had to redefine the earlier order. And of course, it applied to those who were working in concert with those who were – had been placed under an earlier injunction not to impede the access to the clinic.

JANE DOE NO. 6: So I don't have the right to believe that the treatment being done to the free born person needed someone to stand up in the defense of them?

THE COURT: No, ma'am. You have the absolute right to believe that.

JANE DOE NO. 6: But I must be incarcerated for it and they may believe what they want and not get –

THE COURT: No.

JANE DOE NO. 6: I guess I'm confused as to the justice.

THE COURT: No. You are impeding access to others who have a different belief and you do not have the right to impede the access or interfere with their right to enter the clinic.

JANE DOE NO. 6: I was just walking on the sidewalk. I was not impeding anybody that I knew of. Just praying on the sidewalk.

THE COURT: The three days of testimony that the Court heard found that those who were walking on the sidewalk and approaching the driveways caused the automobiles that sought to enter the clinic to slow down, hesitate, stop, at which time that others of your belief would approach the cars and attempt to interfere with

their process and to – it is the action of those on the sidewalk, in conjunction with others, who were there that combined together to deny the right of the access.

JANE DOE NO. 6: Was not that another case other than my own? I was not with that group or even there at that time.

THE COURT: Well, but again, an injunction applies to all persons acting in concert.

JANE DOE NO. 6: But I was not in concert with anybody.

THE COURT: Again, I say that at the time of your trial, perhaps, that would be a defensive matter. Although, I'm told by the Melbourne Police Department that everyone was put on notice that the thirty-six-foot area was a restricted area and then – if you presumably had notice of that and chose to enter, then, you chose to violate the Court's Injunction. That's why you were arrested.

JANE DOE NO. 6: I don't mean this disrespectfully, but does not the constitutional freedom to be on public sidewalk and to –

THE COURT: There is nothing in the constitution that says anyone is entitled to walk on any sidewalk.

JANE DOE NO. 6: But I have the right to demonstrate, the right to assembly, the right to religion and its practice and I was praying on the sidewalk. I don't understand –

THE COURT: And that will not be denied you, but it is subject to regulation. The Court provided the south shoulder of Dixie Way as an area for that to be done.

JANE DOE NO. 6: And you put people in jail for being on that sidewalk.

THE COURT: Because the combined efforts of those who were demonstrating, picketing and being in that area were, in effect, denying access to the clinic, which you do not have a right to deny others access to the clinic.

* * *

[Page 91, line 12 through page 93, line 9]

THE COURT: Do you have any questions?

MR. QUINTERO: Yes, sir. I quite don't understand why am I even here today. I have no knowledge of this injunction. This injunction was never served to me. I don't know why I was even mentioned in that injunction or anything else, if I am there or not. I haven't received it.

THE COURT: I've been told that the law enforcement officers on duty at the scene of the clinic put everyone on notice by public pronouncement that there was an injunction in effect and what areas that it governed. And that's, under the law, all they need to do is make sure you have notice of the Injunction.

MR. QUINTERO: But sir, I was there less than five minutes before I was arrested. I was not told by anybody anything about this. I would like to ask you –

THE COURT: Let me –

MR. QUINTERO: You asked me if I had a question.

THE COURT: Let me comment on it.

MR. QUINTERO: You asked me if I had a question.

THE COURT: Let me comment on it. Mr. Quintero, if that be true, that may be a defensive matter and you need to discuss with your lawyer that aspect of the case and of course present it at the time of trial.

MR. QUINTERO: What I would like to ask you or what I would tell you is that apparently I haven't seen this injunction, but apparently whoever the judge was that issued this injunction, I assume it was you, named me as one of the people in that injunction, because I am here today, I was arrested on this, so I would like to know how –

THE COURT: You were not named in it except you were included in the phrase of those who are working in concert with the named Defendants.

MR. QUINTERO: And who are these Defendants? I have no idea.

THE COURT: They're set out in the Injunction.

MR. QUINTERO: Because I'm not working in conjunction with anybody. I don't know anything. I don't belong to any group that is doing absolutely anything like this. I am just a normal Christian that went to pray on the sidewalk.

* * *

[Page 104, line 20 through page 105, line 18]

MR. LACY: You mentioned to other John Does that we were arrested for being in a public place in concert

with people that were on the Injunction whether we had read the Injunction or not. And I was wondering how we can – why we were arrested and confined as being in concert with these people that we don't know, when other people weren't, that were in that same buffer zone, and it was kind of selective as to who was picked and who was arrested and who was obtained for the same buffer zone in the same public injunction.

THE COURT: Mr. Lacy, I understand that those on the other side of the issue were also in the area. If you are referring to them, the Injunction did not pertain to those on the other side of the issue, because the word in concert with means in concert with those who had taken a certain position in respect to the clinic, adverse to the clinic. If you are saying that is the selective basis that the pro-choice were not arrested when pro-life was arrested, that's the basis of that selection. If others who are pro-life were not selected, I can't answer that. It is the officer's discretion on the scene as to who he arrests.

* * *

[Page 112, line 24 through page 116, line 18]

THE COURT: Do you have any questions?

JOHN DOE NO. 16: I understand from the conversation that's taken place so far that I'm being arrested because I was perceived to have been acting in concert with those who were praying or violating any of the other injunctions in the Court Order. Is that true?

THE COURT: Yes, sir.

JOHN DOE NO. 16: On what basis was that determination made?

THE COURT: Whatever activities you were engaged in seemed to be supportive of pro-life.

JOHN DOE NO. 16: Now, I also understand that there were other people in the area that were considered to be not pro-life or not sharing our beliefs and I acknowledge this. On what basis were those people not arrested?

THE COURT: Because they weren't subject to the Injunction.

JOHN DOE NO. 16: Okay. And what was the reason for that?

THE COURT: They had not attempted to block entrance into the clinic over the past year.

JOHN DOE NO. 16: This was the first time that I was in this area myself and I had not attempted to block an entrance to a clinic in that town or anywhere else in the State of Florida in the last year or ever.

I also understand that the reason why I was arrested was because I acted in concert with those who were demonstrating pro-life. I guess the questions that I'm asking is were the beliefs in ideologies of the people that were present, were those taken into consideration when we were arrested?

THE COURT: In the Court issuing the Injunction, yes, I had provided that the area on the south shoulder of this right-of-way was reserved for those who wished to, you know, protest, demonstrate, but that the traveled portion of the street was to be maintained for vehicular traffic, for vehicular traffic and entrance into the clinic could not be impeded.

JOHN DOE NO. 16: My understanding is that there were other demonstrators in the restricted area that were not acting in concert with us. And I wanted to know how that determination was made.

THE COURT: Whatever the police officer perceived by looking.

JOHN DOE NO. 16: Were the beliefs in ideology of those people, did that have anything to do with the determination in the Injunctive Order or in the arrest?

THE COURT: You know, I wasn't there. I don't know. All I know is that the officer used his perceptions, his eyes, his ears, took note of the activities that were going on and for reasons, you know, he believed that you were in concert with those that had been enjoined and the Injunctive Order is expanded to include those so that you were subject then to the Injunction.

JOHN DOE NO. 16: When you issued the Injunctive Court Order did you include what someone might believe about abortion or about the right to assemble there, or let's just say about abortion as a basis for arrest?

THE COURT: I considered all of the evidence before me.

JOHN DOE NO. 16: Okay. If I was to stand here, if I was to testify that I did not oppose abortion would that make any difference in my arrest?

THE COURT: You can't be unarrested. You have been arrested.

JOHN DOE NO. 16: What about being charged with violating the Court Order?

THE COURT: It will be up to the prosecutor, the State Attorney, to make a charge decision. And sometimes lawyers in representing clients will go to a prosecutor in advance of his charge decision and ask that he, you know, consider additional matters that might cause him to not make such a charge decision. Those are matters lawyers best know how to do.

JOHN DOE NO. 16: When you issued the Injunction did you determine that it would only apply to – that it would apply only to people that were demonstrating that were pro-life?

THE COURT: In effect, yes.

* * *

[Page 119, line 22 through page 120, line 4]

MR. MacLEAN: Respectfully, sir, where on my arrest report does it allege that I was acting in concert with anyone?

THE COURT: It is embodied in the phrase violation of the Injunctive Court Order. But again, this is an arrest report. It is not a formal charge. Presumably within the formal charge there will be that reference, sir.

* * *

[Page 124, line 5 through page 125, line 7]

THE COURT: Okay. Do you have any questions?

JOHN DOE NO. 19: All I can tell you I was just, I wasn't in concert with anybody. I was standing here, there was another lady standing here, and somebody from the clinic comes up and says take me. And the

(inaudible) standing next to me is there. And you couldn't tell the difference between the (inaudible) and myself. So the police – the perception of the police was influence by someone from the clinic. I mean I was standing there with my hands in my pockets, the lady here standing there with her hands in her pockets. I get taken away. She stays there because somebody come over to me and says take me. That's the perception of the police.

Now, in my, whatever this – what do you call this?

THE COURT: The arrest report.

JOHN DOE NO. 19: The arrest report I notice the repetition [sic] of the phrase, if I can tell you, Defendant resisted arrest by falling to the ground, refusing to walk to the van. All of the reports by Officer Rodriguez – I never fell to the ground. My knees never touched the ground. All the reports by Rodriguez uses that phrase. He seems to like the sound of that phrase. I never fell to the ground.

* * *

[Page 134, line 18 through page 135, line 17]

JOHN DOE NO. 27: Finally, there was a – at the time I was on the sidewalk praying, there was a lady named I think Kathy, working with the Aware Woman Clinic there in Melbourne, and she was walking up and down directing the police to arrest certain people. And again, that's why I need a copy of the Injunction. I want to know if she was authorized to work with the Melbourne Police Department in directing them [sic] who to arrest.

THE COURT: Not according to the Court's Order.

JOHN DOE NO. 27: I'm sorry, sir?

THE COURT: Not according to the Court's Order. But understand, the police have the right as in any criminal investigations to ask people who have information about a law violation you know, what do you know or what did you see. I wasn't there. I don't know. I understand what you say. But police can get their information from, you know, people who have information that would assist them in making a decision.

JOHN DOE NO. 27: I didn't hear them ask her, Your Honor. The words I heard from Kathy was I want this one. I just want to state that.

* * *

[Page 148, line 5 through page 149, line 18]

THE COURT: Do you have any questions?

JOHN DOE NO. 31: Yes, I do. Just to clarify in my mind because I'm not used to this type of thing. I wasn't arrested at Aware Woman Clinic.

THE COURT: I said in the vicinity.

JOHN DOE NO. 31: Okay, because I was arrested on a public street, Dixie Way I believe is the name of it. But I have a question. I know others have asked this, but I'm still not clear on it. How did the police determine that I was acting in concert with some organization that was named on this injunction? I again am a person who haven't seen this injunction. So how did the police determine that I was acting in concert?

THE COURT: They observed your activities and determined in their minds whether or not what you were doing was in concert with the – I gather the pro-life position of the other, of the named Defendants.

JOHN DOE NO. 31: I'm still confused, Your Honor. What kind of activities would those be? I mean how could they just by looking at me determine that I was acting in concert? I want to know what I –

THE COURT: You were there. I wasn't. I can't give you anymore than what I've given you. You know what you were doing.

JOHN DOE NO. 31: If I were to tell you, Your Honor, today that I am a pro-choice person, would you drop the injunctive charges against me?

THE COURT: I can't do it now because the arrest has been made. There needs to be a charge decision. And again as I told one other, if his lawyer, you know, were to go to the prosecutor and say you've got a big mistake here, this fellow is on the other side of the issue and convince the prosecutor of that, perhaps the prosecutor wouldn't bring the formal charge.

* * *

April 15, 1993

VIA FAX

The Honorable Robert B. McGregor
Eighteenth Judicial Circuit
301 N. Park Avenue
Sanford, FL 32771

Re: *Women's Health Center, Inc., et al. v. Operation Rescue, et al.,*
Case No. 91-2811-CA-16-K

Dear Judge McGregor:

When we were last in Court (April 2nd), you mentioned that you might entertain suggestions from counsel on the Court's injunctive order after you had drafted it. If this is still in order, the petitioners suggest that you consider the modifications suggested in the attached papers. These are drafted in "legislative" style with the cross-through language being that deleted and the underlined language added.

Respectfully,
/s/ Talbot D'Alemberte/jd
Talbot D'Alemberte

TDA/jd
Enclosures
cc: Jerri A. Blair (w/encl)
Bruce Cadle (w/encl)
Susan England (w/encl)
Sheila Rae Eschenberg (w/encl)
Patrick Mahoney (w/encl)
Kathy Patrick (w/encl)
Kathy Spillar (w/encl)
Randall Terry (w/encl)
Christopher J. Weiss (via fax w/encl)

From page 5:

ORDERED AND ADJUDGED that the respondents, Operation Rescue, Operation *Rescue National*, Rescue America, Operation Goliath, their *partners*, officers, agents, members, employees and servants, and Ed Martin, Bruce Cadle, Pat Mahoney, Randall Terry, Judy Madsen, and Shirley Hobbs, and all persons acting in concert or participation with them, or on their behalf, with notice in any manner or by means of this order (hereinafter referred to generally as respondents) are permanently enjoined from engaging in the following:

From page 7:

(4) During the hours of 7:30 a.m. through noon, on Mondays through Saturdays, during surgical procedures and recovery periods *(as posted at the Clinic)*, from singing, chanting, whistling, shouting, yelling, use of bullhorns, auto horns, sound amplification equipment or other sounds ~~or images observable to or~~ within earshot of the patients inside the Clinic.

From page 7:

(5) At all times on all days, in an area within three-hundred (300) feet of the Clinic, from physically approaching any person *rendering services to the Clinic or* seeking the services of the Clinic ~~unless~~ *where* such person indicates ~~a desire~~ *an apparent unwillingness* to communicate ~~by approaching or by inquiring of the respondents~~. In the event of ~~such invitation~~ *circumstances where there is a desire or apparent willingness to communicate*, the respondents may engage in communications consisting of conversation of a non-threatening nature and by the delivery

of literature within the three-hundred (300) foot area but in no event within the 36 foot buffer zone. Should any individual decline such communication, otherwise known as "sidewalk counseling", that person shall have the absolute right to leave or walk away and the respondents shall not accompany such person, encircle, surround, harass, threaten or physically or verbally abuse those individuals who choose not to communicate with them.

From page 8:

(9) At all times on all days, from ~~encouraging~~ *directing*, inciting, or securing other persons to commit any of the prohibited acts listed herein.

ORDERED AND ADJUDGED that any City of Melbourne police officer (*or other law enforcement official as appropriate*) or other person authorized to serve process may serve a copy of this order on any individual who may not have otherwise received notice of the order. Such officer may read the operative prohibitory language of this order to any individual who is without notice of this order, and such service or oral notice shall subject the person so served or noticed to the sanctions provided for herein for failure to comply herewith. If the authorities of the City of Melbourne determine that it would assist them in enforcing

(paragraph is continued unchanged)

IN THE CIRCUIT COURT OF
THE EIGHTEENTH JUDICIAL
CIRCUIT IN AND FOR
SEMINOLE COUNTY, FLORIDA

CASE NO. 91-2811-CA-16-K

WOMEN'S HEALTH CENTER,
INC., AWARE WOMAN CENTER
FOR CHOICE, INC., et al.,

Petitioners,

-vs-

OPERATION RESCUE,
OPERATION RESCUE AMERICA,
OPERATION GOLIATH, ED
MARTIN, BRUCE CADLE, et al.,

Respondents.
_____/

MOTION TO INTERVENE AND TO CLARIFY
AMENDED PERMANENT INJUNCTION

The City of Melbourne [hereinafter "the City"], pursuant to Fla. R. Civ. P. 1.230, moves the Court for an order (1) allowing it to intervene in the above-styled actions solely for purposes expressed herein and (2) clarifying the Amended Permanent Injunction, for the following reasons:

1. On April 8, 1993, this Court entered an Amended Permanent Injunction [hereinafter "the Injunction"].

2. The City was not a party to the action resulting in the Injunction. The Injunction significantly affects the interest of the City, however, in that the Injunction authorizes the law enforcement officers of the City to enforce

the Injunction. The Injunction expressly provides, among other things, that

> [A]ny City of Melbourne police officer or other person authorized to serve process may serve a copy of this order on any individual who may not have otherwise received notice of the order.

The Injunction further provides:

> Law enforcement authorities, pursuant to the protective provisions of the court's order, are authorized to arrest those persons who appear to be in willful and intentional disobedience of this injunction.

3. The City seeks to intervene solely to have this Court clarify the City's enforcement obligations under the Injunction. The City does not seek through this motion to question the merits or lawfulness of the Injunction, and the City recognizes that its intervention is in subordination to the main proceeding.

4. The City is directly affected by the Injunction because, although the Injunction apparently authorizes all law enforcement authorities to enforce the Injunction, the Aware Woman Clinic is located within the jurisdiction of the City's law enforcement authorities. Consequently, the burden of enforcing the order has fallen upon the City. In the belief that the Injunction imposes a duty upon the City's law enforcement officers to enforce the Injunction, the City has, pursuant to the Injunction, taken into custody over 100 persons. The City is further affected by the Injunction in that representatives of both the Petitioners' and the Respondents' points of view have threatened the City with litigation over the enforcement of the Injunction. Hence, the City requests guidance from this

Court as to how the City's law enforcement authorities are to enforce the Injunction.

5. When doubt exists as to the scope of the injunction or the things that may or may not be done thereunder, it is proper to apply to the court that issued the injunction for a construction of its terms. See 42 Am. Jur. 2d *Injunctions* § 337 (1969) (citing *New Jersey v. City of New York*, 296 U.S. 259, 56 S. Ct. 188, 80 L. Ed. 214 (1935)).

6. The City has interpreted the Injunction as imposing upon its law enforcement authorities the legal duty of enforcing the Injunction. This conclusion is in accordance with the well-established rule that police officers are not to act as pseudo-appellate courts scrutinizing the orders of judges, and that police officers must fearlessly and unhesitatingly execute court orders unless the court, or a higher court, directs otherwise. See, *e.g.*, *Turney v. O'Toole*, 898 F.2d 1470 (10th Cir. 1990); *Valdez v. City & County of Denver*, 878 F.2d 1285 (10th Cir. 1989).

7. Specifically, the City requests the Court's guidance in interpreting the provisions that

> the Respondents, Operation Rescue, Operation Rescue America, Operation Goliath, their officers, agents, members, employees and servants, and Ed Martin, Bruce Cadle, Pat Mahoney, Randall Terry, Judy Madsen, and Shirley Hobbs, *and all persons acting in concert or participation with them, or on their behalf,* with notice in any manner or by means of this order (hereinafter referred to generally as respondents) are permanently enjoined from engaging in the following:
>
> . . . .

> At all times on all days from congregating, picketing, patrolling, demonstrating, or entering that portion of public right-of-way or private property within thirty-six (36) feet of the property line of the Clinic.

8. The City has interpreted the previously cited provisions by taking into custody and bringing before the Court those persons who, after specific notice of the Injunction's terms, refused to comply and continued to congregate in, picket, patrol, demonstrate in, or enter the "buffer zone." The City requests the Court's guidance as to whether the City is required to make further determination concerning whether persons are "acting in concert or participation" with the Respondents. If such further determination is required, the City requests the Court to advise how such determination is to be made other than by the actions of the individuals, particularly since the named Respondent groups are unincorporated organizations.

9. Thus, the City seeks this Court's guidance as to whether the City is enforcing the Injunction in accordance with this Court's intention and, if not, an explanation of what is required to comply with the Injunction.

WHEREFORE, the City respectfully requests this Honorable Court to issue an order

(1) allowing the City to intervene in this matter, and

(2) providing guidance to the City as to the proper construction of the terms of the Injunction.

Respectfully submitted,

REINMAN, HARRELL, GRAHAM,
MITCHELL & WATTWOOD, P.A.
1825 S. Riverview Drive
Melbourne, Florida 32901
Telephone: (407) 724-4450

/s/ James L. Reinman
JAMES L. REINMAN
Florida Bar No. 183537
Attorneys for City of Melbourne

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished by U.S. Mail to TALBOT [sic] D'ALEMBERTE, 215 S. Monroe Street, Suite 601, Tallahassee, Florida 32301; KATHY PATRICK, 1100 Louisiana, Suite 3400, Houston, Texas 77002; JERRI A. BLAIR, 351 W. Alfred Street, Tavares, Florida 32778; CHRISTOPHER J. WEISS, Two S. Orange Avenue, Orlando, Florida 32802; SHEILA RAE ESCHENBERG, 221 Avenida De Paz, Indiatlantic, Florida 32903; BRUCE CADLE, 702 Andrew Street, N.E., Palm Bay, Florida 32905; PATRICK MAHONEY, 1345 N.E. Fourth Court, Boca Raton, Florida 33432; and RANDALL TERRY, RR 2, Box 196, Harpursville, New York 13787-9536, on this *18th* day of May, 1993.

/s/ James L. Reinman
JAMES L. REINMAN
Florida Bar No. 183537

THE FLORIDA SUPREME COURT'S OPINION DATED OCTOBER 28, 1993 CAN BE FOUND ON PAGE A-1 OF THE APPENDICES OF THE PETITIONERS' PETITION FOR WRIT OF CERTIORARI

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT IN AND
FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., and CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,	)	
Plaintiffs/Petitioners,	)	CASE NO.
vs.	)	91-2811-CA
OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, Ed Martin, Bruce Cadle, Pat Mahoney, Randall Terry, Judy Madsen, and Shirley Hobbs,	)	
Defendants/Respondents.	)	

PLAINTIFFS/PETITIONERS' OPPOSITION TO CITY OF MELBOURNE'S MOTION TO INTERVENE

The Plaintiffs/Petitioners respond to the City of Melbourne's Motion to Intervene and state their opposition to the motion. As grounds therefore [sic], they state:

1. The motion seeks intervention for purposes of an advisory opinion which is not within the role of the courts in Florida and is particularly inappropriate where a non-party seeks to intervene.

2. If the city needs an advisory opinion on the City's duties to enforce the law or on the subject of police

power generally, the Attorney General is available to provide an advisory opinion to the City. The undersigned counsel represents that he has checked with the Deputy Attorney General and has learned that the Attorney General's office stands ready to provide such an opinion on request.

3. The City's motion is untimely. The injunctive order now is on appeal and issues relating to it have been briefed by the parties.

/s/ Talbot D'Alemberte
TALBOT D'ALEMBERTE
Florida Bar No. 017529
215 S. Monroe St., Suite 601
Tallahassee, FL 32301
(904) 222-2300

KATHY PATRICK
Texas Bar No. 15581400
1100 Louisiana, Suite 3400
Houston, TX 77002
(713) 650-8805

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered by U. S. mail to Christopher J. Weiss, Two S. Orange Avenue, Orlando, FL 32802; Sheila Rae Eschenberg, 221 Avenida De Paz, Indiatlantic, FL 32903; Bruce Cadle, 701 Andrew St., N.E., Palm Bay, FL 32905; Patrick Mahoney, 1345 N.E. Fourth Court, Boca

Raton, FL 33432 and at 613 Second Street, N.E., Washington, D.C. 20002; and Randall Terry, RR 2, Box 196, Harpursville, NY 13787-9536 on this ___ day of May, 1993.

/s/ Talbot D'Alemberte
TALBOT D'ALEMBERTE

IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA
FIFTH DISTRICT

OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, JUDY MADSEN, et al.,

Appellant,

v. Case No. 93-969

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., et al.,

Appellee.

_____/

DATE: June 3, 1993

BY ORDER OF THE COURT:

The Appellants seek review of an order of the Circuit Court for Seminole County, Florida, granting a permanent injunction sharply restricting demonstrations outside an abortion clinic. The Appellants allege that the injunction infringes upon the exercise of the First Amendment rights to peacefully demonstrate, picket, distribute literature and express one's self on public property, sidewalks, roadways, and rights of way. The Appellees argue that the injunction protects their First Amendment rights, their rights to privacy, their rights to engage in business activity, and their clients' rights to obtain medical treatment. Appellants have and are engaging in such activities on a statewide basis that similar injunctions have been issued throughout the state. The constitutionality of the

injunction(s), require immediate resolution by the Florida Supreme Court. Accordingly, it is

ORDERED that the JOINT MOTION FOR CERTIFICATION OF CASE TO THE FLORIDA SUPREME COURT, filed April 27, 1993, is granted. Moreover, it is

ORDERED that this Court hereby certifies that the constitutionality of the injunction issued below is an issue of great public importance and one which will have a great effect on the proper administration of justice throughout the State. This Court therefore requests the Supreme Court of Florida to accept jurisdiction of this case pursuant to Florida Rule of Appellate Procedure 9.125.

I hereby certify that the foregoing is
(a true copy of) the original court order.

FRANK J. HABERSHAW, CLERK

(COURT SEAL)

cc: Talbot D'Alemberte, Esq. Kathy Patrick, Esq.
Bruce Cadle, Esq. Jerri Blair, Esq.
Patrick Mahoney, Esq. Christopher Weiss, Esq.
Randall Terry, Esq. Sheila R. Eschenberg, Esq.
Mathew D. Staver, Esq., and Jeffrey T. Kipi, Esq.
Hon. Sid J. White, Clerk, Florida Supreme Court
(with case file)

PLAINTIFF'S EXHIBITS INDEX

CASE #: 92-2811 CA

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WARNING, WARNING, WARNING, WARNING

CHILD-KILLER INSIDE COMFORT INN !

FRANK SNYDLE

A KNOWN CHILD KILLER
SPENT LAST NIGHT AT THIS COMFORT INN!
MR. SNYDLE TRAVELS OVER
100 MILES TO MELBOURNE TO

KILL PRE-BORN CHILDREN

EVEN THOUGH AMERICA HAS
TEMPORARILY LEGALIZED ABORTION,
GOD STILL CALLS IT MURDER!

PLEASE ASK COMFORT INN NOT TO ALLOW THIS KNOWN CHILD-KILLER TO STAY IN THEIR HOTEL!

Meredith Raney
2488 Burns Ave.
Melbourne, FL 32935
Ph. 407-254-5481
Dec. 29, 1992

Dr. Frank Snydle
2950 Crump Rd.
Winter Haven, FL 338811

Dear Dr. Snydle,

You may not be aware of the activities planned for Melbourne over the next 3 months. The enclosed newspaper articles talk about them a little bit. You may not want to be a part of it.

Sincerely yours,

Meredith Raney

FL Today 12/24/92

Pro-Life activists
to converge on Brevard

By Patricia Baird Windle
Melbourne

From Jan. 18 to April 11, anti-abortion leaders from all over the nation are coming to Melbourne to start a new technique they euphemistically call "Impact team training."

No matter what they call it, no matter how they dress it up, it still spells "school for conspiracy," a way to

practice new and old nasty, illegal tactics against abortion clinics.

The "faculty" for this terrorist school includes well-known criminals who have arrest records in cities across the nation and hundreds of other arrests among them collectively.

Among those they have led, arrests number tens of thousands, including in the despicable blockades using small children. The "students" are coming to learn all of the vicious, illegal practices their leaders can dream up.

While fomenting [sic] conspiracy to commit illegal acts across the land, they will practice here in Central Florida at Aware Woman Clinic in Melbourne and Port St. Lucie. Their "field trips" to "practice" will cost you plenty.

The bills for cops and prosecution in Wichita hit $1 million, and even more in Milwaukee.

This money would be better spent in fighting street crime and drug crime and for safety in our public schools – not on the ugly behavior of a bunch of frustrated fanatics and schoolyard bullies.

FL. 12/28/92

Pro-life activists to train in Brevard

by Stephanie Reitz
FLORIDA TODAY

Pro-life activists nationwide will make Brevard County their training ground from January to April.

Operation Rescue, a national group based in Summerville, S.C., plans to hold its first 12-week session training pro-life Christians and forming IMPACT teams.

The teams' initials stand for Institute of Mobilized Prophetic Activated Christian Training. Their purpose: "true spiritual warfare . . . that will function as a force of righteousness" for the pro-life movement, its registration pamphlet states.

The activity will be monitored by Melbourne police and the owners and employees of the Aware Woman Center for Choice, a Melbourne clinic that provides abortions, pregnancy testing and prenatal care.

"I believe this conference is an obvious formation of a (national) conspiracy, and they'll probably use a lot of their old tricks on us and whatever new things they can think up," said Aware Woman founder Patricia Baird Windle.

Brevard's most active pro-life group is Operation Goliath, a local chapter of Operation Rescue. It is headed by Palm Bay resident Bruce Cadle, who also is Operation Rescue's southeastern director.

Cadle could not be reached for comment, but has been active in arranging sidewalk counselling, picketing

and protests outside Aware Woman and other clinics nationwide.

Those tactics are expected to be covered in the training session, which runs from Jan. 18 to April 9. It will feature weekly public rallies and speeches from prominent pro-life activists and religious leaders.

The almost 50 trainees will stay with Operation Goliath members and other local pro-life activists.

"One day you may make a house call, one day will be sidewalk counseling, and of course, the threat of rescue will hang over the killers' heads every day because you will be there," the registration pamphlet reads. A second 12-week session will be held this summer in a mid-western city.

Pro-choice leaders suspect Brevard was picked not only because it is home to Operation Goliath, but also because Florida has been considered a safe state for abortion providers.

OPERATION RESCUE

FLORIDA I.M.P.A.C.T.

Local Address:
PO BOX 100037
Palm Bay, FL 32910
407-259-9557

PO Box 127
Summerville, SC 29484
Office (803) 821-8441
Fax (803) 821-8583

February 16, 1993

Dear Friend:

Greetings in Jesus' Name!

The IMPACT team training and weekly rallies have had an effect in Central Florida. In the coming weeks we believe the testimonies of saved and changed lives will continue to spread throughout Florida. More of God's people are beginning to see that child killing isn't just another issue. Unfortunately, some are still standing by, waiting to see what will happen. I believe God wants to bring us to the point where we do what is right not merely what is popular.

It continues to revolt me to see how much of the Christian community depends on good press as a basis of their actions. They seem to have forgotten that Jesus was not crucified because He was popular. More than ever we are going to have to take a stand and identify with the babies. We must be willing to have our character assassinated. Those in the abortion industry will sling mud as fast as they can. They will do anything to keep the focus away from dead babies and hurting women.

It is sad to say that they know the tactic will work against Christians. Too many Christians value their personal comfort and reputation more that God's laws and purposes. Jesus said, "whosoever shall lose his life for my sake shall find it." It is as true today as the day He said it.

Truth does conquer and people must be exposed to the Truth. Many believers have summarily passed judgment against Operation Rescue and others based on media accounts. The Church must be wise enough to understand that the media is not telling the truth. That is one reason why we have rallies each week. These meetings are critical. They offer much needed inspiration and perspective to the committed, and they allow the undecided or prejudiced Christian to gain a fuller understanding of the battle. All rallies begin at 7:00 pm. Please call the office for rally locations. Over the next weeks, the rallies will have dynamic speakers including Randall Terry, Pat Mahoney, Richard Exley and Dr. Beverly McMillan. Randall has pioneered the modern rescue movement with a call to the body of Christ to repent from sins of omission. Pat has, for the last fourteen years, been an outspoken advocate for the struggling and oppressed in our society. He is presently the director of the Christian Defense Coalition in Washington, DC. Richard is a pastor, author, radio host, pro-life apologist and activist.

Dr. Beverly McMillan, a former abortionist, will be speaking at Our Lady of Lourdes Church located at the corner of Oak and Fee in Melbourne on Friday, February 26th. Dr. McMillan will also be speaking at a ladies only luncheon on at 12:00 noon on the same day. It will take place at Sweetwaters Restaurant located at 465 S. Wickham Road in Melbourne. There is a [sic] $8.00 donation

requested and tickets are required. Please call the IMPACT office at 407-259-9557 for further information.

We are bringing leaders of this caliber here because we believe God has His hand on Florida. We are doing all we can to see the sacrificial seed that has been sown here come to fruition. Reach out and bring a friend to a rally and help spread the seeds of revival that God is sowing in Florida.

I want to ask you to do all you can to help us. Your generosity on behalf of the children and the future of our nation is very needed right now. This is no time to give up or give in. We must press on. No amount you give is too insignificant or too large. It is a life or death battle.

The Lord is using many people to make a difference. We have seen many victories on the street. Several children and their moms have been saved from death and exploitation. One of the couples that the Lord saved from certain destruction was married this past Sunday in a ceremony that was provided, planned and attended by caring Christian people. In response to these victories, the abortuary pressured the Melbourne Police Department to restrict Christians from reaching abortion bound moms by keeping them away from the entrance to the death-camp. The following week the police removed the barricades when they received a clear message that many people were willing to risk arrest if they were not permitted to continue to pray, preach and pass out literature where they always had.

Don't miss the opportunity to be a part of the move of God that is going on in Florida. The lives and futures of families are being effected by the presence of the

IMPACT team and local people who are stepping out and saying "NO" to the child-killers. Join us at the Friday Night rallies and on the street on Saturday. Your presence can make a life or death difference to a little boy or girl that is scheduled for execution. Your financial investment in the lives of the next generation of Floridians is critical. Please do all you can now to stand with those who are a voice for the voiceless.

In the Master's Service,

/s/ Keith
Keith Tucci
Executive Director
Operation Rescue National

/s/ Bruce
Bruce Cadle
Field Director
Operation Rescue National

I am committed to winning Florida over for Jesus and Life. Enclosed is a gift of ___ to help make an IMPACT in my area.

Operation Rescue National

Florida Impact News

Two Rescues, Three Saved Babies,
No Arrests, and a Wedding

On Saturday, February 6th, the IMPACT team participated in not one, but two rescues. Thirty rescuers arrived

at 7:45 am and went immediately to the doors of Aware Woman Abortuary in Port St. Lucie.

After the doors were blocked, sidewalk counselors were able to offer the moms assistance and alternatives. One of the moms definitely changed her mind and chose life for her baby. After the women were turned away, the rescuers voluntarily left the property without arrests.

At 2:15 the same rescuers arrived at a Woman's World killing center in Ft. Pierce. They immediately sat in front of the doors, preventing the babies who were scheduled to die from being dragged into the mill.

Once again the sidewalk counselors were able to persuade two of the moms to choose life for their babies. One of the couples decided to get married. The rescuers were able to leave the doors after turning the women away without a warning from the Ft. Pierce police.

Tom and Penny's Wedding

"I had prayed, God, if You're real, have someone there to stop us," Penny told the sidewalk counselor. That Saturday, at an abortion mill that never has pro-lifers outside to offer alternatives, over 30 showed up in answer to Penny's prayer.

Tom and Penny had arrived early for their appointment, but sat in their van crying and talking. New in town, they had no jobs, no friends, no family support, no stable home. Though Tom adores their first child, he couldn't see how they could handle a second. Penny thought Tom would leave her if she kept this child that

she already dearly loved. Both thought the other wanted an abortion.

Tom knew something was up when he saw a school bus full of people slowly drive by. A few minutes later dozens of people were standing in front of the mill doors. A counselor approached their van and asked if they wanted to talk. "You need to talk with me," she said. "I've had three abortions. I can tell you what's going to happen to you."

Fifteen minutes later, Tom and Penny had not only decided to keep their child – they also decided to get married! Keith Tucci offered to officiate, saying, "Hey, Weddings R Us! We'll put it together for you. Just tell us when."

They chose Valentine's Day – one week away! Valerie Cadle made all the arrangements. Almost everything was donated – from the wedding dress and tux to a hotel room for the wedding night. Over 110 people came to show their support and excitement.

During the ceremony Keith exhorted them, "Only one week ago your lives were headed toward tragedy. If you ever question if you're supposed to be married, just remember all that God had done to bring you here." The whole audience erupted in applause and praise to God.

"It's the best wedding I've ever been to" was heard again and again. It was a celebration that allowed people to truly share in the joy of God's redeeming power.

JOURNALISTIC INTEGRITY – NOT!

USA TODAY recently came to Melbourne to do a story on the IMPACT team training school. One of the many questions that reporter Deborah Sharp asked us was do we participate in vandalism. We told her absolutely not. Monday, February 1st her story appeared on page 2a, a very highly read section of the paper. It stated that our tactics include vandalism. It didn't say alleged vandalism, it didn't say we were accused of vandalism, it said we do vandalism. Keith Tucci was outraged and called the reporter immediately to ask why she had written such a blatant lie.

After some hesitation, she responded that in fact she did not write that part of the story, but that one of her editors, Mimi Hall, had inserted that statement into the article. Mimi admitted inserting the statement, but said that Bruce Cadle boasted in an earlier USA TODAY article that vandalism is one of our tactics. Bruce's actual statement was a total denial of vandalism.

ORN is asking for a retraction, and is also investigating legal remedies.

CHRISTIANITY OUTLAWED IN MELBOURNE

On Saturday, February 6th, Christians arrived at Aware Woman abortuary in Melbourne, to find out that the practice of their Christian faith had suddenly become illegal. On this particular day, Christians were not allowed to preach, pray, or pass out tracts on the public sidewalk, on a public street, or on other public property.

Sidewalk counselors were told that even if a car voluntarily stopped and wanted literature, they would be arrested if they stepped out to hand it to them!

There was even a police checkpoint to stop approaching vehicles. If the vehicle was going to the abortion mill, it was allowed to drive down the public street, but Christians were herded behind barricades across the street, unable to offer help to the women in crisis pregnancies.

The following week a cry went out from the Christian community. Flyers were distributed and the Melbourne Police force was sent a clear message that we would continue to preach, pray and counsel where we always have and that they would have to arrest us on public property for practicing our faith. The weekly Friday night rally on February 12th was addressed by Pastor Flip Benham from Dallas, TX, who encouraged the crowd to stand for Christ and the children the next day. Pastor Benham spent 19 days in jail this summer for preaching on a public sidewalk in Houston. Many people came forward to commit to "take back the land."

When the Church arrived at the killing center the next Saturday, the barricades were removed – for the most part. There was still one area that the counsellors had always used to give literature to incoming cars that was roped off. The sidewalk counsellors stood where they have always stood and two of them were arrested. There was an immediate reaction from any local Christians who went across to the barricades and stood on the spot where the sidewalk counselors were arrested. The police department re-thought the situation and "un-

arrested" the sidewalk counselors. The final barricades were finally removed!

Thank God for the courage of the precious sidewalk counsellors who were willing to stand in the gap for the children, despite the threat of arrests. Rallies continue every Friday. Please contact 407-259-9557 for

---

FLORIDA IMPACT
LADIES LUNCHEON WITH DR. BEVERLY MCMILLAN
FORMER ABORTIONIST/PRO-LIFE ACTIVIST

■

Friday, February 26 at 12:00 noon at Sweetwaters Restaurant 465 S. Wickham Road, Melbourne

■

Donation $8.00
For further information: 407-259-9557

. . . And a child shall lead them

Matthew's parents weren't sure if they should bring him to a pro-life rally or not. They thought he might be overwhelmed, and they feared that the worship might be too "charismatic" for him. Matthew came to the third IMPACT rally and was moved to tears. During the praise and worship Matthew raised his hands to the Lord. When the offering plates were passed, he told his mom that she didn't put enough money in. When the call was given to come out and pray in front of the killing center the next morning, Matthew insisted that the whole family go, for

their first experience in direct action. Praise God for Christian families standing up together.

Randall Terry is Coming to Florida

Randy is America's most loved and hated pro-life leader. He pioneered the modern rescue movement with a call to the Body of Christ to repent from sins of omission. Randy is host of the controversial radio program "Randall Terry Live." Although he is best known for his pro-life work, he biblically confronts all the critical issues of our day with clarity, energy and wit. He will be in **Port St. Lucie on Thursday, March 4th at Morningside Church, 2180 SE Morningside Blvd. at 7:30 pm, in Melbourne on Friday March 5th for the weekly IMPACT rally** (location to be announced) **and in Orlando on March 6th at the First Wesleyan Church, 1665 N. Chickasaw Trail.** Contact 407-259-9557 for further information.

This newsletter is dedicated to babies of Florida and their moms. May it serve you in some way.

PLAINTIFF'S EXHIBIT P5

Videotape of Activities
at Aware Woman Clinic
3/6/93 and 2/20/93

[This Exhibit has been lodged separately with the clerk.]

LAST QUARTER PRAYER SERVICES

9:30 Saturday Mornings — rain or shine

October

31 Women's Medical Center, WMC, 680 Hwy 434, Winter Springs

November

7 EPOCH, 609 Virginia Drive, Orlando

14 Birth Control Center, BCC, 1030 Herman Avenue, Orlando

21 Women's Health Organization, 1700 W. Colonial, Orlando

28 WMC

December

5 EPOCH

12 BCC

19 WHO

26 WMC

RESCUING AMERICA'S FUTURE—TODAY THROUGH PRAYER AND DIRECT ACTION

Rescue America
2000 N.E. 51st Place
Ocala, Florida 34479

REV. ED MARTIN
Executive Director
(904) 629-5553

through prayer and direct action.

Pre-born children, over 4500 daily, are dying throughout our country. We believe that their birthmothers are also unknowingly the victims of abortion. The child she carries in her womb is not merely a choice; but a flesh and blood human being deserving of life. The taking of this innocent life will leave a permanent scar with the mother. As Christians, we must try to save as many as we can from this horrible atrocity known as abortion. So we offer all the assistance necessary to help the mother sustain her baby's life.

We follow the Biblical mandate, 2 Chronicles 7:14, "If the people who are called by my name will humble themselves and pray, seek my face and turn from their wicked ways, I will hear from Heaven, I will forgive them of their sins and I will heal their land."

Literally, to humble ouselves means to kneel, repent, sacrifice and to make ouselves lowly for the glory of God. RESCUE AMERICA does this weekly with our presence at the abortion clinics. On behalf of Jesus Christ, we are pleading for "the least of these", our tiny preborn brothers and sisters, by showing concern and compassion to their birthmothers.

On November of 1990, we initiated prayer services in front of the clinics. For the past two years, we have been praying and petitioning God to heal our land. And miraculous things began to happen. Our sidewalk counselors have found the birthmothers are easier to talk with. Graciously, our God is providing more and more people to help save the babies, and with the increase of Christians praying in front of the abortion chambers, more children are being saved.

The only one who can save our country from abortion is our Lord and Savior, Jesus Christ. It is to Him that we give all the honor and praise for each life saved. As to the Scripture, "...turn from your wicked ways", we believe He meant, "discard the apathy evident in the Christian Church today". To fight abortion demands more than just a stand for Holines--we are waging war in the spiritual realm.

We accomplish this in four ways: First, through the solemn prayer services. Each week a group of Christians gather at a different abortion clinic and pray. More churches are signing on to take a Saturday service each quarter, asking their congregations to take part. If each Life Chain church would answer this call, every abortion clinic would have a prayer cover during business hours.

Secondly, those who hold signs--not as picketers or protesters--but to save babies' lives outside the abortion clinics can have an impact--holding your *"Abortion Kills Children"* or any similar sign may touch a mother's heart, and change her plans to kill her baby. (In addition, many Christians have carried signs, protesting at abortionists' practices, homes and hospitals--this is very effective! Physicians do not want their "secret" livelihoods exposed, and will yield to pressure.)

sidewalk counselors, and their prayer partners, men and women who try to engage the moms and dads in conversation, offering literature giving information on crisis pregnancy centers, the development of the pre-born baby, the possible complications of abortion, and testimonies of women who carried their babies to term.

All of the above forms of direct action are legal and done within the framework of the law. If pastors would lead their congregations to the frontlines, the numbers would be overwhelming, and the fourth method, the rescue, would be unnecessary.

The fourth and most misunderstood aspect of baby-saving in front of the clinic is the actual rescue. The term rescue refers to blockikng access to the entrance of abortion clinics. In this manner, we are putting our bodies between the abortionist and his intended victim, the preborn child. While we are in place, there are no babies murdered. This buys time for our sidewalk counselors to talk with the birthmothers. In most cases, the clinic is shut for the day. Many appointments do not reschedule.

Most of the time, rescues result in risk of arrest. Arrests may result in jail time. RESCUE AMERICA feels that we are not breaking the law, but obeying both God's law and man's law. In both the federal law and in all fifty state laws, there is a clause which provides that when a person is in danger of dying, we not only have the right, but the duty to save that person. The Law of Necessity counters the Law of Trespass. The Commandment, "Thou shall not kill", has never been cancelled.

Those who rescue, do so out of deep conviction, feeling God's call to "lay down our life for our friend". For four years there has not been an Orlando rescue--He has used our obedience and commitment in other ways, but we do not presume that it will always be so. Prayer is the mainstay of rescuers who must sacrifice in this way to save another's life.

RESCUE AMERICA mails a newsletter monthly which carries pro-life happenings of the previous month, both locally and nationally, upcoming events, and a letter of encouragment.

RESCUE AMERICA has no paid staff, no office, and little overhead. We are all volunteers, missionaries to the preborn child--an outreach of Christ's Church in the battle to save lives.

RESCUE AMERICA is a not-for-profit organization, but we are not tax exempt. All our funds come from our supporters; we receive no grants from any group, organization or church. We are dependent on those who love the babies and feel compelled to give as the Lord Jesus leads them.

REMEMBER, YOUR PRESENCE AT AN ABORTION CLINIC WILL ALWAYS SAVE A BABY'S LIFE.

August 6-15, the RA team will join with the Pro-Life Action Network for their annual conference in Denver. It will coincide with the visit of Pope John Paul and 20,000 young Evangelicals.

SIDEWALK COUNSELOR'S CORNER: Just before press time, we learned John Sapyta, John has left his state job and exploring new opportunities to use his legal background and work experience. Meanwhile he is making his presence felt outside the local abortuaries every chance he gets. Caught him this rainy morning heading to WMC in Winter Springs to sidewalk counsel. Many of you know John for his faithful, weekly leading of the rotating prayer services. Others of you have witnessed him handing out tracts on salvation as street people pass by. WHO on Colonial Dr. We asked him if he had a "save" testimony for this week. He responded gladly—here's one: "Last Wednesday, we spoke with a couple outside EPOC. The man, a Moslem, allowed me to witness to him that Jesus was more than prophet. I shared that Jesus is the Savior of the world while Carol spoke with his girl friend. The girl friend claimed she was there for a pregnancy test. We gave them literature on the crisis pregnancy centers. They entered EPOC, then exited shortly. The birthmother went to a nearby pay phone and made a call. Then they left and went to a CPC. We had another ? experience the same morning, but this is a save we are sure of." Thank God ... a CPC brochures being supplied to us. John shares this scripture, 1 John 3:18: "My little children, let us not love in word, neither in tongue; but in deed and in truth." John certainly lives this!

RANDALL TERRY IS COMING TO FLORIDA: He will be in Orlando on March 6th at the First Wesleyan Church 1666 N. Chickasaw Trail at 7:00. Randall pioneered the modern rescue movement with a call to the Body of Christ to repent from sins of commission. He biblically confronts the critical issues of our day with clarity, energy and wit. DON'T MISS HEARING ONE OF AMERICA'S MOST CONTROVERSIAL FIGURES.

MARCH PRAYER SERVICE
9:30 SATURDAY MORNINGS - RAIN OR SHINE

March 6 Birth Control Center, BCC, 1699 Herman Avenue, Orlando
13 Women's Health Organization, 1700 W. Colonial, Orlando
Led by Dr. Vaughan Stanley, Orangewood Presbyterian Church
20 EPOC, 609 Virginia Drive, Orlando
27 BCC

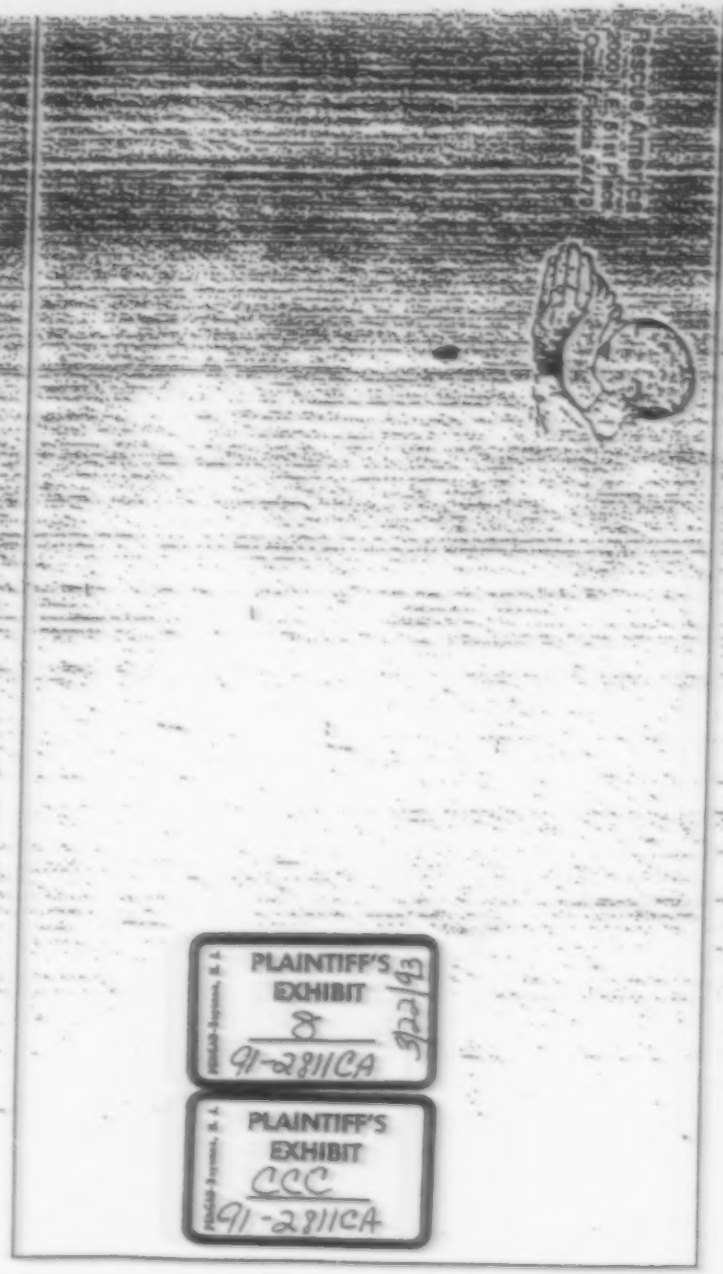
Thanks to the efforts of consistent and prayerful support of our RA volunteers, Women's Medical Center, WMC at 680 Hwy 434, Winter Springs, Montrose, owner and abortionist, has stopped killing babies on Saturday mornings. As Ed Martin has predicted, if we can get the numbers of Christians coming out to pray, we can shut the abortion mills down.

Montrose is still busy five days a week. We would like to initiate Friday morning prayer services at WMC. Would you call John if you would like to participate. 831-9787. YOU DO MAKE A DIFFERENCE.

SIDEWALK COUNSELERS MEETING: Training, literature, fellowship, testimonies, prayer, with leader, Mary Kennedy. March 6, 7PM-9PM. Call Rose for directions, 896-1603 or 330-1672.

RESCUE AMERICA'S MONTHLY MEETING: March 16, 7PM at First Baptist Church of Winter Park, New York Avenue. Call Judy for information, 293-3845. Come to learn and go to serve. WE NEED YOU!!!

RESCUE AMERICA LIFELINE - PH# 263-5566



2000 N.E. 51st Place
Ocala, Florida 34479
REV. ED MARTIN
Executive Director
(904) 629-5553

3/06/93
First Warning

Dear Pro-Life Friends: March 1993

Greetings in the Name of the Lord Jesus Christ!

The old saying, "THE BEST DEFENSE IS A GOOD OFFENSE," certainly applies to the Pro-Life Movement. The Clinton administration and the pro-death people have instituted an all-out attack on the sanctity of human life. NOW IS NOT THE TIME TO RETREAT! NOW IS THE TIME TO MAKE A TACTICAL ATTACK RIGHT TO THE HEART OF THE BABY KILLING INDUSTRY: THE DEATH CENTER ITSELF!

1993 will be a year of intense baby-saving activities on the part of Rescue America. We have developed a plan to involve the Church of Jesus Christ in spiritual warfare. Massive prayer services will take place across America and across the world at the death camps for the children. Tens of thousands of children worldwide will be spared if we are able to make ourselves heard.

I have never pulled any punches with you. We do not employ slick fund raisers that take a large percentage of your money for writing a letter. I am going to ask you from my heart to join with us in this huge task God has given. Honestly, without your help, this plan will not work.

The plan is simple. We must recruit more Christians to take direct action to save babies' lives. Each child we save from death is the cost of one abortion, but I must tell you—WE WILL NEVER END ALL ABORTIONS. Even if the law is changed in our favor, abortions will still take place. Christians must be there to show the birth-mothers, someone in the community truly cares and wants to help them.

Informing the Church is the difficult part. I believe thousands of believers would be willing to go to the clinics each week if they only knew the truth. But how do we reach them? How do we deliver our message?

We are looking into taking out ads in the leading Christian magazines and newspapers. The ads will focus on saving babies' lives at the abortion clinics. We will provide some kind of special offer to those who call or write in for information. We have the most extensive list of pro-life leaders throughout the United States, and throughout the world. When Christians contact us, we will be able to refer them to a pro-life leader in their own area.

These ads will be very expensive to produce and run. One leading Christian magazine costs over $6,000 for a full page ad, but it reaches over one million people—mostly pro-life.

At the present time, we are planning a how-to manual to save babies' lives at abortion clinics. It will include all aspects of direct action such as: setting up prayer services, getting the pastors involved, holding rallies, sidewalk counseling, etc.! The cost

This year, a team from Rescue America will travel throughout the United States and Canada, setting up prayer services and rescues. We will depart for England, Scotland, Ireland and France later this spring to rescue and speak to protestant pastors in those countries about the need to involve their churches in saving babies' lives.

Father Rick Walsh has credited RA's baby-saving team for putting the fire under the pro-life movement in Puerto Rico. He also said we did more in four days to bring the Protestant and Catholic Churches together than had ever been done before in Puerto Rican history.

We must have your help. These are only a few of the many exciting projects being put together for RA this year. You can see, we are not content with sitting around and holding meetings, or talking about what to do, but we are taking the battle to the frontlines.

I , of you wonder why you should help children you never met or will never know. It is my belief that God will not bless America as long as baby killing continues unchecked. ABORTION IS MURDER!!! Violence, drugs, child abuse, pornography, and a poor economy will continue as long as we give permission for the murder of unborn children in our country. (We do that when we do nothing.) Indeed, child sacrifice is the crowning piece of the same moral deficiency and depravity responsible for all crimes against mankind.

Christians will begin to suffer shortly—our children and grandchildren are at risk—we must do something to secure their future. Consider your gift to this ministry as a safeguard for their very lives.

Please share with us in this venture. Anyone of you familiar with our work, know we are not idle. Our reputation confirms we will do what we say. WE DO NOT ASK FOR OURSELVES...WE ASK FOR THE LITTLE ONES. Please consider a sacrificial gift to jump start one of these programs—you may designate your preference. But we must also have ongoing monthly support, raising over $5,000 in monthly pledges to keep the programs active.

HOW MUCH IS A HUMAN LIFE WORTH? We cannot name a monetary value. We have over 1,300 individuals receiving our newsletter. If each sent five or ten dollars monthly, our needs would be met. You just don't know how difficult it is for me to write a letter asking for dollars—but the need is so critical. I hope to hear from each of you on the mailing list this month.

Please pray earnestly that our Lord will guide you. He loves a cheerful giver—what could possibly give you greater joy than saving a baby's life? ("How can I repay the Lord for all his goodness to me?" Psalm 116:12).
Thank you so much for all your continued help. I know God will have a special blessing for those who answer with their hearts!

Love for Life,

Ed Martin

EULOGY FOR THREE CHILDREN (The following was read by Rev. Ed Martin at the Memorial and Burial Service for three aborted babies on February 6, 1993:
"As of today, September 23, 1992, my wife, Linda, and I have three new children. I feel that God has given these children to our family through a spiritual form of adoption. The three were found in a dumpster outside an abortion clinic in Washington, D. kept their bodies intact.

Today, while standing outside the All Women's Health Center in Gainesville, I felt the Lord asking me to spiritually adopt these children as my own. He gave me their full names, the ones He wanted for them. "Now the word of the Lord came to me saying, 'Before I formed you in the womb, I knew you, and before you were born, I consecrated you; I have appointed you a prophet to the nations.' (Jeremiah 1:4-5.)

Please, let me now tell you about our three new children.

Baby Steven Donald. Baby Stevie and I have traveled throughout the country together. He is a perfectly formed little boy who was killed through abortion at the age of 12 weeks in utero. He may have been a sports figure as he looks like he is throwing some type of ball. Poor Stevie went through much pain when he was killed in that clinic in Washington, D. C., for you see, his mouth is open in a scream, and his little tongue is hanging out.

The Lord has named him Stephen Donald Martin after the man who first led the rescue movement in Central Florida—Steve Utsler, and Donald Treshman—the founder of the rescue movement in Texas and my partner in Rescue America.

It is time to bury Stevie. The chemicals are no longer working, and his beautiful, pink body is now black and the only thing that you can distinguish is that fine strong hand, reaching toward heaven.

Baby Judith Joan Martin. Baby Judy is also beautiful. Her body, a little more transparent than Stevie's, but you can distinguish her features, and that she is a girl. Baby Judy also traveled with me, and her little torn body was used by the Lord to convince people to save other little children.

Judith Joan is named after Judy Madeen, the current rescue and activist leader in the Central Florida area, and Joan Reilly, the fiery redhead from Ocala who first informed me about the Pro-life movement, and how to save babies.

Baby Lawrence Michael Martin. Baby Larry is the least distinguishable of the three children. His body was so torn up by the forceps that it is hard to tell if he is a boy or girl. Baby Larry has stayed in his resting place in my home for the full three years.

Baby Lawrence Michael is named after one of the most faithful pro-lifers in all of Central Florida, and one of the least known. Larry Schmitz has stood his faithful watch at the back entrance to "The Women's Health Organization" for as long as I can remember. His faithfulness has saved thousands of children the horrors of an abortion death, and also saved their moms the pain of killing their children. Another longtime faithful friend and little known pro-lifer is Michael Hamblin—the father of eight children. Mike has stood guard over abortion clinics since the late seventies. His determination has brought many Christians into the pro-life movement, and he has also saved many children and their moms the pains of abortion.

Over the past three years, these children have become as close to me as my own three natural children. Sometimes, I find myself talking to their torn broken bodies, asking them to forgive me of my years of apathy and fear. I know their spirits are home with our Lord, and they have no more worries and troubles. But they are my children and I will continue to weep over their senseless killings, and the senseless killings of over thirty million of their brothers and sisters.

Please, now in your own heart, reflect on their short life and death. Over the past three years, these small bodies have touched many lives, and I know have saved many children. If someone had been to this clinic in Washington, D. C. to hold a sign or to talk to them about the help that was available to their moms in the Christian Community, or to just stand there and pray, then perhaps—just perhaps—their moms would have walked away from this killing place and we would not be here to cry over them.

It is good to weep, it is good to cry, it is good to feel sorrow, it is good to even feel outrage. But we must come away from this with the understanding that each of us is in a small way responsible for their death. The Church of Jesus Christ

children.

STEPHEN DONALD, JUDITH JOAN, LAWRENCE MICHAEL: Your mother, brothers, sisters, the millions of pro-lifers and your father now release your body to be buried. And even though we did not know you in this life, we truly love you. As Christians, we have that eternal promise of seeing you and spending eternity with you and our Lord Jesus Christ."

"WE WON IN VOLUSIA!!!" began the letter addressed to Ed Martin, Shirley Hobbs and Judy Madeen. Chris Weiss, attorney for the three defendants advised them that Judge William Johnson, Circuit Court Judge for Volusia County denied The Women's Health Center, Inc. and Family Planning, Inc's motion for a permanent injunction and quashed the temporary injunction. This decision came five days after the U.S. Supreme Court handed down the decision ruling against the pro-aborts in the Bray v. Alexandria Women's Health Clinic. (which means pro-life has defeated the attempt of NOW to have the federal courts condemn the pro-life movement as "anti-women" and "anti-civil rights.") ***WARNING—Our victories are often short-lived. The pro-aborts are appealing Judge Johnson's ruling.*** ***WARNING—Both in the Congress and in the Florida House, bills have been introduced to to provide criminal acts and penalties for disruption of certain lawful activities re: medical facilities. House Bill #1429. It's targeting "protests by pro-lifers outside abortion clinics, ie., sidewalk counseling, picketing, praying and rescuing. CALL YOUR CONGRESSMEN AND SENATORS—US & State. Ask your pro-life elected official for a listing of bills of interest to pro-family people, which includes some dangerous bills in committee—granting special status based on sexual orientation, condom distribution, and funding for feminist radical agenda.

STATE, NATIONAL AND INTERNATIONAL NEWS

Dateline Puerto Rico: Rescue Puerto Rico and RA went on trial Feb. 4 for RICO suits filed against them by local abortion clinic owners and a coalition of pro-death and sodomite forces. Their purpose is to fabricate a link between and the Catholic Church on the island and RA. All the defendants except Ed Martin were represented by local attorneys; Ed defended himself and RA in the federal trial. The highpoint of the trial was when Ed pressured the head of the ungodly coalition to admit that they believed in sex with children by adults as long as the child said it was OK. This included incest, homosexuality, and child pornography. The trial was postponed for a few months at the discretion of the judge to give both sides time to prepare. Please continue to pray for the situation in Puerto Rico. Father Walsh has come under a great attack for his stand for the unborn.

Dateline Gainesville, Florida: The Right to Life office was firebombed February 12. Someone tried to throw a firebomb through the front window of the RTL office. It blew up at the front door, and damage was minimal. At the same time this happened, Gainesville RTL was preparing to hold a banquet a few blocks away. As the eighty plus guests arrived, they had to make their way through over fifty screaming pro-aborts.

MISSIONARIES' JOURNEYS OF RA CONTINUE—
March 13-18, Rev. Ed Martin will join with Joan Andrews Bell for a speaking tour of New York, New Jersey, and Delaware.
March 28-April 14, the RA team will travel to England, Scotland, France and Ireland. The team will stage rescues and speak to various groups and churches on pro-life activism.
April 16-19, Rev. Martin will lead rallies and prayer services throughout the eastern section of Texas.
May 6-15, Rev. Martin will speak throughout the central section of Canada on Rescue and direct action. Mid-June the RA team will lead a rescue in the Central

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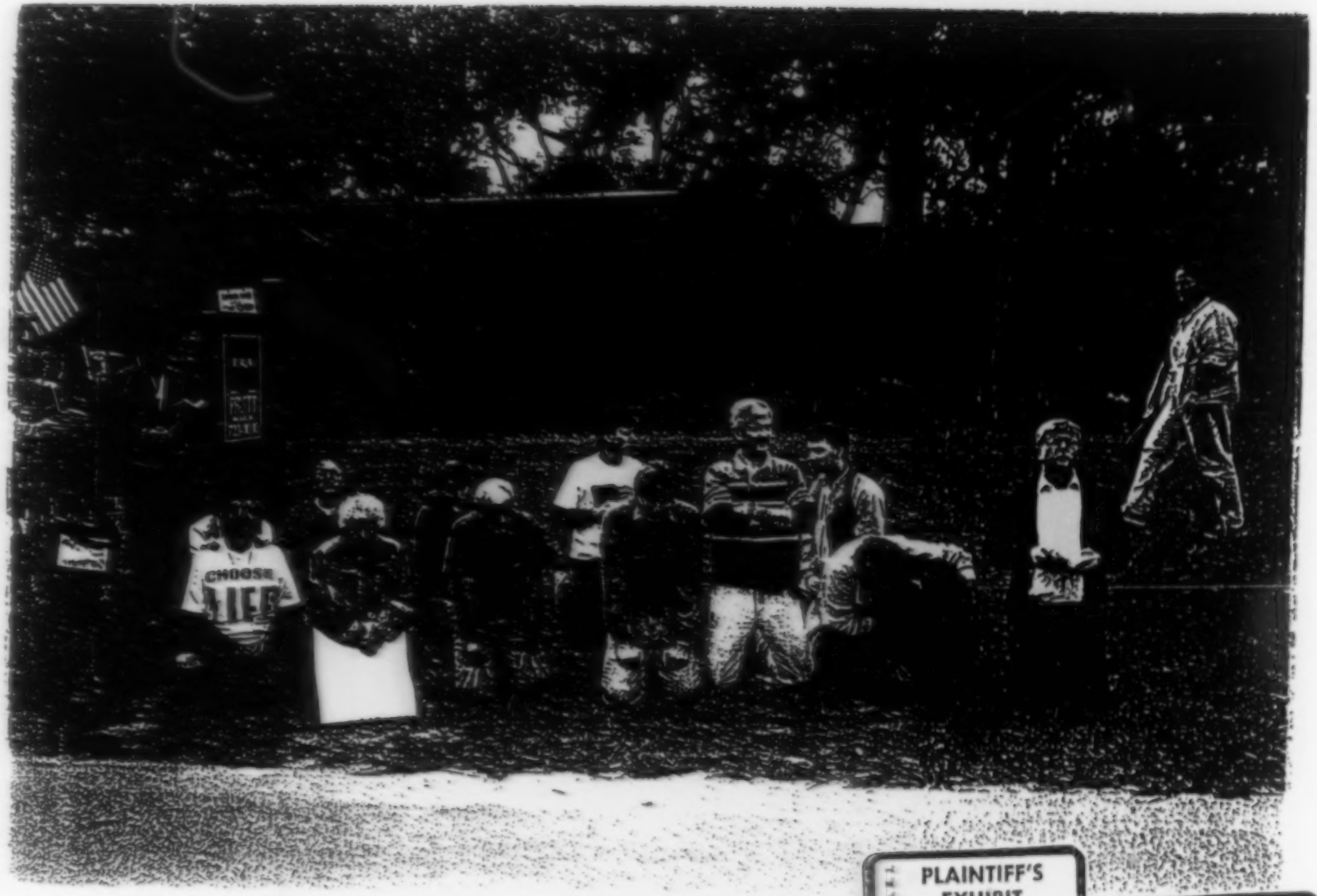

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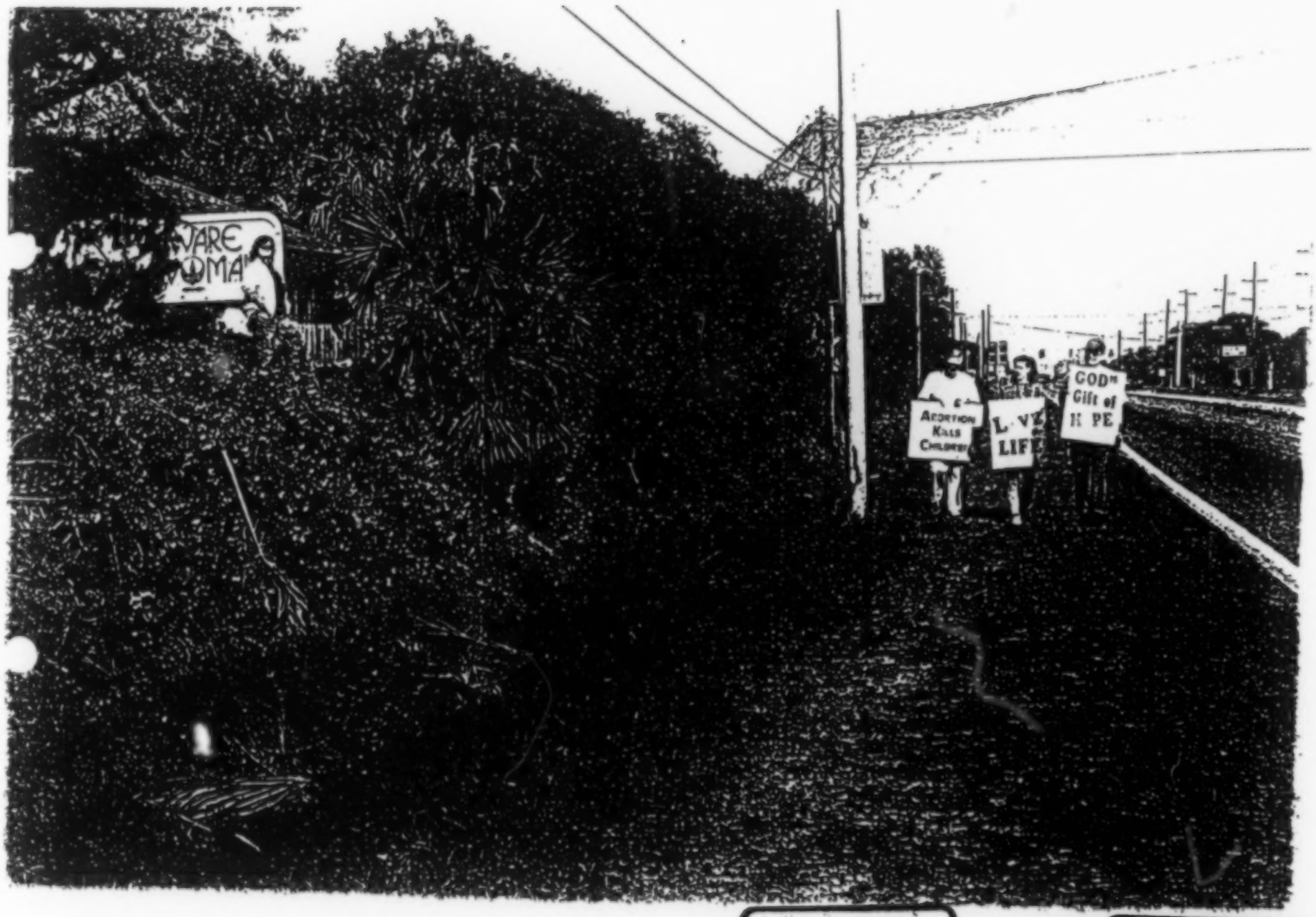

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NATIONAL OPERATION RESCUE

FLORIDA I.M.P.A.C.T.

March 27, 1993

Dear Friend:

Greetings in the Jesus' Name!

We have been through a whirlwind in the last two weeks. We are being attacked by the media as a result of the tragic shooting of David Gunn. We have been flooded with media interviews; Time, Newsweek, New York Times, L.A. Times, ABC, CBS, NBC, CNN, London Telegraph, two live Today show appearances, all here in Melbourne. That's not to mention hundreds of local and state interviews.

Operation Rescue National has always promoted non-violence, and has a rich history of peaceful intervention. The man who shot the abortionist in Pensacola has never even been to a rescue event, but the media has attacked us viciously and repeatedly.

We're being attacked in the courts. Central Florida abortionists are trying to prove that Bruce Cadle and others are guilty of contempt of an injunction they have never violated. Aware Woman's employees are lying under oath, and the judge is allowing it. The killing industry in Central Florida has brought in all the resources of the national feminist arsenal to try and stop the local lifesaving activities.

We're being attacked in the legislature. The state of Florida is trying to outlaw any attempts by Christians to save babies lives at abortion mills. They are, in fact, trying to remove the First Amendment rights of pro-lifers, simply because of what they believe.

Here's the good news! Our Lord and Saviour Jesus Christ said that the gates of hell will not prevail against the Church! When Jesus talked about hell in scripture He used the word Gehenna. Jesus was referring to an actual place, in the valley of Hinnom, where children were sacrificed.

Today, children are sacrificed inside abortion mills. The reason the Church is not prevailing against the gates of hell is because we are not going to the gates of hell. We know where they are killing babies, we know when they are killing babies, and we even know who is killing them. But we tend to look for any excuse in the world not to go intervene on behalf of the children.

Jesus said "Do unto others as you would have others do unto you." If you were being dragged against your will to be executed – even though you had committed no crime – what would you want done on your behalf?

Jesus commands us to "Love our neighbor as ourselves." He also said, "No greater love has a man than this, to lay down his life for his friends."

We reflect on Jesus laying down His life for us as Holy Week approaches. If He had not been willing to die for us, we would not have eternal life. Is there a better way to show our appreciation to our Lord than to follow

His example? He told us, "To deny ourselves, take up our cross, and follow Him."

Precious little babies, created by God, are scheduled to be killed during Holy Week. Please join us to speak up for those who cannot speak for themselves during this sacred time. We need men, women, and children from all over Florida, to come together and stand up for righteousness.

Please join your brothers and sisters from around the state at the rallies to pray, worship, and then go forth to take the love of Jesus to the very gates of hell. Rallies will be held on April 8 & 9, 1993 at 7:00 pm at Our Lady of Lourdes Church. The church is located at the corner of Oak and Fee Ave. in Melbourne. If you have questions, feel free to call the office at 407-259-9557. There will be child-saving activities all across Florida on April 10. Join in during Holy Week and bring your family. The next generation of Floridians needs you to take a stand for them.

Your financial help is needed to help this event go forward. Our enemy is well funded, and we need to be equipped to stand against their attacks. Please send a sacrificial gift today to help during the challenging days ahead. And please, PRAY! PRAY! PRAY!

I look forward to seeing you during Holy Week and please give as large a gift as you can as soon as possible!

In the Master's Service,

/s/ Keith
Keith Tucci
Executive Director
Operation Rescue National

I will follow the example that Jesus gave us. I believe that the children and their mothers are worth my time and resources.

_I will participate in Holy Week activities.

_Enclosed is my gift of ___ to help ORN during this critical time.

Florence Andrus
1916 Hillmoor Dr. #77
Fort Pierce, FL 34952

HOLY WEEK
FLORIDA 1993

"RESCUE THOSE WHO ARE UNJUSTLY SENTENCED TO DEATH, DON'T STAND BACK AND LET THEM DIE! *IF YOU SAY YOU DIDN'T KNOW THIS, DOES NOT THE GOD WHO KNOWS YOUR HEART KNOW THAT YOU KNEW, AND JUDGE YOU ACCORDINGLY"*
PROVERBS 24:11-12

Join Christians from all across Florida to stand up for the pre-born babies who are scheduled to be killed!

Rallies to be held

Thursday April 8th at 7:00 pm
at
Covenant Presbyterian
(Please note that this is different from enclosed letter and is correct)
720 Emerson Drive in Palm Bay
and
Friday April 9th at 7:00 pm
at
Our Lady of Lourdes Church
On the corner of Oak and Fee in Melbourne

Child-Saving Activities

Saturday April 10, 1993
All Across the state of Florida!
Times and locations to be announced!

For further information contact:

Operation Rescue National at 407-259-9557

[p. 1] IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,	]	CASE NO. 91-2811-CA
Petitioners,	]	
vs.	]	
OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, PAT MAHONEY, RANDALL TERRY, JUDY MADSEN, AND SHIRLEY HOBBS,	]	
Respondents.	]	

BEFORE THE HONORABLE
ROBERT B. MCGREGOR
JUDGE OF THE COURT

A hearing in the above style [sic] cause was held at 1:30 o'clock p. m., on Monday, the 22nd day of March, 1993, in the Courtroom of the Seminole County Courthouse, Sanford, Florida, before Margie L. Breit, Notary Public for the State of Florida at Large.

[p. 2] APPEARANCES:

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Attorney for the Respondents

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Two South Orange Plaza
Orlando, Florida 32801
Attorney for the Respondents
Martin, Madsen and Hobbs
BY: CHRISTOPER [sic] J. WEISS

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TRANSCRIPT OF PROCEEDINGS

HEARING HELD MARCH 22, 1993

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[p. 4] WHEREUPON:

The following proceedings were had:

THE COURT: This case is styled Women's Health Center, Incoproated [sic], Aware Woman Center for Choice, Incorporated and others as petitioners versus Operation Rescue, Operation Rescue America, Operation Goliath, Ed Martin, Bruce Cadle as respondents. Case number 91-2811-CA.

The Court is in receipt of a motion styled or titled March 1993 Motion Number One, Emergency Motion for Sanctions Against Defendants Who Violated the Court's Order Injunctive Order and also a pleading entitled March 1993 Motion Number Two, Emergency Motion for Modification of Injunctive Order.

The Court is also in receipt of a notice of hearing scheduling these matters for hearing at this time.

Is the Plaintiff ready to proceed?

MR. D'ALEMBERTE: We are, Your Honor.

THE COURT: Is the Defendant ready to proceed?

MR. WEISS: Not fully, Your Honor. I received both pleadings that you just referenced by facsimile copy. I received on March the tenth the first motion number one.

Motion number two I received on March the twenty-second at eleven twenty a. m. by facsimile copy. I don't even have a complete copy of page nine of it.

[p. 5] I don't have any verified copies to show that any of the documents have been verified. Presumptively those are in the Court file.

Before going a whole lot further in it, I would want to invoke the rule of sequestration at this time with respect to all other than the named parties in this cause because I do think they are going to be receiving live testimony here today.

THE COURT: As to everybody or as to those expected to be witnesses?

MR. WEISS: Both my clients intend to testify here today. As to the other parties who have been served with notice that they're going to be subject to sanctions, I believe they're defendants to this cause and the plaintiffs seek you to impose sanctions on them, they certainly have the right to be here and hear what their accusers have to say.

With respect to all other non-parties in this action, that would be anyone other than the plaintiffs, other than the named defendants –

THE COURT: Please, sir, you repeat yourself unnecessarily. All I asked was whether, you know, you

were talking about everyone in the room or just those that will be witnesses.

MR. WEISS: Anyone that will be a witness, Your [p. 6] Honor.

THE COURT: Okay.

MR. D'ALEMBERTE: Your Honor, we have, may it please the Court, my name is Talbot D'Alemberte appearing for the plaintiff. We have no objection to that.

We would ask for one exception, Your Honor, and that is for Captain Gary Alleyer who is a captain on the Melbourne Police Force who we will present to the court as an expert witness.

And, since some of what he would testify to, Your Honor, relates to a video tape and other material to be shown, we respectively submit it would save a great deal of time to allow him to remain in the courtroom. We do intend to qualify him as a police expert, Your Honor.

THE COURT: I don't know. Do you want to counter?

MR. WEISS: I do, Your Honor. We are entitled to hear him fresh from the stand the first time.

THE COURT: Well, frequently an expert witness is called upon to relay opinions based on testimony given by others.

From what you know, why do you believe his testimony will be tainted by what he hears others to say?

MR. WEISS: First of all with respect to who's going to be called today, I have idea, I have no prior

knowledge to his status as an expert, his qualifications [p. 7] as an expert, and what he's expected to opine upon.

And, therefore, without knowing whether or not he really meets the definition of an expert – If he is an expert, then I would agree with the Court. For instance, if he meets the requisite qualifications, then he ought to be entitled to come and hear it.

Without knowing who he is or anything about his educational background or training or experience, if the Court finds him an expert, then that would be appropriate to have him in here. I think it's inappropriate at this time.

THE COURT: Mr. D'Alemberte, will he be in any way a fact witness?

MR. D'ALEMBERTE: Your Honor, honestly he would be a fact witness as well. Yes, sir. There are some things he observed.

If I may just briefly, Your Honor, spell that out. He would – He has been a witness to a number of these episodes, Your Honor. We do have some video tape, pieces of video tapes. I think it's about twenty-seven minutes long.

We thought allowing him here at least while that video tape is being shown would save a good bit of time for the Court. Also he could, I'm not sure he's even seen this video tape. It would allow him to refer to [p. 8] that tape to bring to Your Honor's attention to episodes that have occurred at the clinic.

Since he was also present himself, he would be a factual witness as well, yes, sir.

I can provide something of his background if that would be helpful to counsel.

THE COURT: Well, if you would tell me how you intend to call upon him in his field of expertise. In other words, to fashion –

MR. D'ALEMBERTE: Yes, sir.

THE COURT: – to fashion the relief you seek?

MR. D'ALEMBERTE: Yes, sir. Just to talk about the points of public safety and convenience and what measures would be useful to aid the Melbourne Police Department in providing public safety around this clinic at times.

And, some of that, Your Honor, as I listened to him, struck me as probably opinion. Just to be safe, I wanted to make sure that I got him qualified as an expert.

MR. WEISS: Just by way of rebuttal, Your honor, I do believe from time to time he is a paid employee and security man for the plaintiff in question.

MR. D'ALEMBERTE: If that's true, I certainly have no knowledge of it. That's not true, Your Honor.

MR. WEISS: That's the information relayed to him.

MR. D'ALEMBERTE: That's incorrect.

[p. 9] THE COURT: To the extent that he'll be a fact witness, it would be best that he be subject to the rule.

MR. D'ALEMBERTE: I understand, Your Honor. We'll try to figure out some way not to waste too much time.

THE COURT: Would you please announce your witnesses and have them stand so that I might instruct them on the rule of sequestration.

MR. D'ALEMBERTE: Yes, Your Honor. If I may identify the parties who maybe witnesses, but who are entitled to be here as party representatives.

Your Honor, first of all with me, Your Honor, as counsel is Kathy Patrick who is admitted from Texas by counsel agreement. Susan England counsel is in the courtroom. Jerry Blair, I hope will be here. Scott Rost is here. Tammy Joy is here, and she will help us with exhibits, Your Honor, but she is also representative of one of the parties plaintiff.

THE COURT: Which party?

MS. JOY: The Women's Health Center.

THE COURT: They are not otherwise represented?

MS. JOY: No.

MR. D'ALEMBERTE: And Patricia and Ted Windle, Your Honor, the owners of the Woman's Aware Clinic.

In addition to those Dr. Snydle, Ruth Aric (phonetic).

[p. 10] THE COURT: Are these the witnesses that you plan to call?

MR. D'ALEMBERTE: Yes, sir.

THE COURT: Are they present?

MR. D'ALEMBERTE: Yes, sir.

THE COURT: If you would have them stand and remain standing.

MR. D'ALEMBERTE: Bruce Cadle is a party, Your Honor. So, he's entitled to remain. Meredith Raney I believe is not a party. I don't know if he's in the courtroom. Pam Doyle is a witness. There is another witness also.

MS. PATRICK: Your Honor, there is another witness we would like to call. He is not in the courtroom now. If I see him in the courtroom, I will call him to the Court's attention. He's a tall blond fellow.

MR. CADLE: Your Honor, a document related as a subpoena was dropped at my house. I'm the Defendant Bruce Cadle. Reverend Tucci does not live at my home.

I instructed the man who did not identify himself, but who dropped this document at my house, that he did not live there, has never lived there, was not visiting or staying. He refused to listen. Left this document with a money order. I'm not sure if he knows to be here.

MS. PATRICK: Your Honor, I'm not telling the Court [p. 11] he's under subpoena. I was given to understand Mr. Tucci would be here. I was told that. Whether he shows up or not, I wanted to alert the Court, if he does show up we are going to call him as a witness.

THE COURT: All right. Thank you.

MR. D'ALEMBERTE: I have a copy of a witness list, if I may tender a copy to opposing counsel.

THE COURT: Would the Defendant indicate any witnesses that you may be calling and have them stand.

MR. WEISS: Just parties, Your Honor.

THE COURT: Okay. Thank you. To those of you who are standing, other than Mr. Cadle, who maybe seated, you've been designated as the witnesses for this hearing. And, the Court will require of all witnesses, other than parties, that you remain outside of the courtroom and far enough away so you are unable to hear anything that is said or done within the courtroom except, of course, when you yourself are called to the witness stand to testify.

In addition, from this point forward you are not to discuss the testimony that you will give or the testimony that you have given with any other person.

But, the rule is broader than testimony. You are just not to discuss any part of the case with any other person, including each other.

Do each of you understand those instructions?

[p. 12] All nodding affirmatively. All right. If you would please step from the courtroom at this time. Remain nearby until you are called.

MR. D'ALEMBERTE: Your Honor, may I inquire about your instructions? Counsel will be allowed to, in bringing people in, to let them know what items –

THE COURT: I meant to speak to that exception. I'll clarify it if it becomes necessary.

MR. D'ALEMBERTE: Just as long as counsel is aware of that. Your Honor, would it be helpful to just give a brief opening statement at this time? I just wanted to clarify that.

THE COURT: Yes, please.

MR. D'ALEMBERTE: Your Honor, counsel was really quite correct in his earlier comments about the papers served. In fact, I think he was a little too generous to us about the notice given because I don't think it was March tenth that we actually got the first papers to him. I think he's giving us the benefit of a day or so.

But, the original papers in this case were began last week for this emergency that we hoped to bring to Your Honor's attention came closer and closer upon us.

When we did originally seek a hearing, when Your Honor informed us, we phoned counsel, when I first became involed [sic] at least, we phoned counsel to let counsel know [p. 13] what we'd be planning to do, filings that we'd made both in the appellant court and this court and that we would seek the earliest possible hearing that we could seek.

THE COURT: Let me inquire about that, Mr. D'Alemberte.

MR. D'ALEMBERTE: Yes, sir.

THE COURT: I see a reference to a matter pending in the appellate court. Is that matter still pending?

MR. D'ALEMBERTE: It is, Your Honor. But, I do have, it's nothing but a faxed copy of an order, I believe counsel has also received, if I maybe permitted to show that to you.

It's an order which I think that clears up the problem that worried me. When I first heard there was an appeal pending, I obviously worried about that old metaphysical question about whose [sic] got the file.

Well, as you see, the file is before this court. What happened is the appeal was docketed as a non-final, an appeal from a non-final order. So, the thing that worried me, Your Honor, about the appellate court relinquishing jurisdiction no longer worries me.

Additionally, there is an order by the appellate court. If I may read a portion of that order to the court?

This is upon consideration, the Appellees, March [p. 14] 17, 1993, emergency motion to relinquish jurisdiction. And, it, appearing from a motion and briefs filed in the cause that no stay of permanent injunction being appealed has sought or granted, the lower court has inherent authority to consider the imposition of sanctions for violating the permanent injunction and relinquishment of jurisdiction is unnecessary.

So, I felt some comfort in that, Your Honor. Additionally, I have copies of the notice of appeal and the docketing order signed by, on behalf of Hank Habershaw (phonetic) the clerk. And, it's an acknowledgement of a notice of appeal, non-final. If that would give Your Honor comfort.

THE COURT: I see the same in the court file indicating it was filed – well, the filing date of ten twenty-seven, ninety-two.

MR. D'ALEMBERTE: Yes, sir. And, so the thing that worried me when I filed the motions, because, quite honestly, at the time that we were worried about getting before this court on an emergency basis, I had not actually seen the appellate papers and I –

THE COURT: Other than the order you've just read, the appellate court has not entered any other orders?

MR. D'ALEMBERTE: No, Your Honor. That's all. And, because the appellate court says there's no [p. 15] jurisdictional problem and because the file is here at the courthouse and the appeal is docketed as a non-final appeal, I think we've got metaphysics out of the way for a moment.

THE COURT: Yes. Uh-huh. You may proceed.

MR. D'ALEMBERTE: Your Honor, just briefly now. We are on an emergency hearing.

We filed the first motion, faxing a copy to counsel as soon as we had it completed. That March 1993 first motion asks for sanctions.

Additionally, Your Honor you will see in the last paragraph of that motion a prayer for relief that the court also look to modifying the injunctive order that's been entered before. So, that actually was entered. That actually was filed with the court last week. And –

THE COURT: I was under the impression that your motion one spoke only to enforcement, not to modification. Your motion two was the modification request.

MR. D'ALEMBERTE: Your Honor, any confusion is undoubtedly my fault because if you will in the last paragraph of the motion for sanctions, we asked for a modification as well.

These matters can be separated possibly, Your Honor. But, as we begin to hear what we have by way of [p. 16] sanctions, it occurred to us that in some particulars there may be confusion on the part of the parties defendant. And, we don't think it's very healthy to have that kind of confusion.

And, we, therefore, did seek modification. Indeed, it's in a sentence where the word injunction is misspelled. That may indicate some undue haste in getting those papers to the court.

But, what we filed with the court today and served on counsel only today was an elaboration of that original paragraph. And, in which we actually spell out how we'd like to have modification.

Honestly, we thought seriously about styling the second motion as merely a memorandum, not the kind of modification, but we thought it would be useful for counsel to see what it was we were actually seeking. But, we did seek it in the original motion, Your Honor.

THE COURT: Let me ask opposing counsel. You say having received motion number two at earlier this morning if you –

MR. WEISS: It was faxed to me.

THE COURT: – really weren't feeling yourself prepared to respond to it, is there – misspelled word, is there an emergency to modify as well as an emergency to enforce?

[p. 17] MR. D'ALEMBERTE: Your Honor, we believe so. And, honestly, as we began to hear – as I began to hear the witnesses we will present to you today, you'll find all of this is bound up so closely together, that is both violations, we think very clear violations of existing injunctive orders and the possibility that perhaps some citizens have not entirely understood what we believe is understandable. And, we think having a court order which is very clear and specific will allay the situation, Your Honor.

And, the modification we seek would begin to draw some brighter lines that have been drawn in the injunction before. The reason for that, Your Honor, is there's been considerable change in tactics on the part of the protesters.

And, I do not want to characterize that as any attempt to evade the injunction. But, again public safety and welfare of the people served by these clinics is very much threatened, sir.

THE COURT: Well, I can understand the need for, perhaps an emergency hearing on enforcing an existing injunction. I have a little trouble visualizing the need, I'm certain you will help me visualize it –

MR. D'ALEMBERTE: I hope the witnesses will, Your Honor.

[p. 18] THE COURT: – for modification. But, and I hesitate to impose on opposing counsel the need to respond to a modification when it's so recently came to his attention.

MR. D'ALEMBERTE: He did not get that full motion until this morning, sir. And, a notice he had before that was just that we would seek some modification, but not the details of what we would seek.

THE COURT: Mr. D'Alemberte, I agree in the matter of the injunction bright lines are important so there can be no misunderstanding. But, it would seem to me that in – if the court needs to respond to the emergency motion to enforce the injunction, that within any order I would fashion, I could draw the bright lines that perhaps you seek.

I would like to therefore proceed only on the motion to enforce rather than the motion to modify unless, as we go along, the opposing side consents to such a modification.

MR. WEISS: We do not, Your Honor.

THE COURT: Pardon me?

MR. WEISS: We do not at this point consent.

THE COURT: I understand that. But, you may see a need to do that. And, I don't want to overlook, you know, that possibility if it serves your purpose as well [p. 19] as his.

MR. WEISS: One of the principal concerns is, you have an order that's been outstanding for a great deal of time. It's familiar to the defendants. I want to

make sure that any order that's entered here today, particularly with respect any possibility of sanctions, would be real tough for the defendants to be held in contempt for an order that's being fashioned today, theoretically.

That's my concern. I'm greatly concerned about violation of due process rights, particually [sic] the possibility of being held –

THE COURT: I understand. You've heard my ruling. We will proceed only on the existing matters.

MR. WEISS: Thank you, Your Honor.

MR. D'ALEMBERTE: And, Your Honor, I don't know if it would be helpful to the court and counsel at some point, but I do have copies of injunctions arising in similar contexts in Dade, Broward, and Palm Beach counties. And, if I may give a copy to counsel and a copy to the court for its –

THE COURT: What is its relevance here other are you submitting it as the requested order?

MR. D'ALEMBERTE: No, no, Your Honor. Only to respond to what I thought was Your Honor's suggestion [p. 20] that perhaps in the process of enforcement, entering an order of enforcement, Your Honor may want to fashion that kind of guidelines. I didn't know if it could be of use to you to receive it.

THE COURT: All right.

MR. D'ALEMBERTE: I'll give a copy to counsel. And, if I may just proffer those copies to the court.

Your Honor, with that, I think we're prepared to begin testimony. I just might put on the record, with

counsel's indulgence, and perhaps even with a stipulation, that notice in this case has consisted of a phone call – Would it be fair to say Tuesday? Do you recall?

MR. WEISS: The middle of last week sometime.

MR. D'ALEMBERTE: – in which we discussed the case. And, counsel, was then good enough to agree to the admission of Kathy Patrick.

And, we faxed the first motion asking for an emergency motion on Wednesday. Also mailed those, had the additional first motion faxed and mailed on Thursday evening and also left a phone message.

And, on Friday faxed a letter and also called proposing that we meet earlier today to discuss witnesses, documents and so forth. We were not able to get together. But, we were available both yesterday and [p. 21] today for that kind of discussion.

And, in addition, I mailed, express mailed to all the non – all the parties who have been defaulted in the earlier proceedings. Your Honor, you'll recall some parties who did not respond to the subpoena in the original case and were never represented by counsel so far as I can read the court file. We sent mail directly to them originally by express mail.

In addition to that, co-counsel Kathy Patrick made some reference to give notice to parties in the chronology of a Texas proceedings.

MS. PATRICK: Your Honor, in the proceedings that a similar injunction action that is pending in Harris County, Texas, the Defendants Operation Rescue and Rescue America as well as some of the individual defendants

that we seek here to have held in the contempt of the court's order are parties. They are represented by counsel in Houston.

I called Mr. Catus Kaigle (phonetic) who represents both Operation Rescue and defendants Terry and Mahoney to advise him of the proceedings and also faxed to him a letter advising him of the proceedings, the fact that we were seeking sanctions against his clients and the fact we would seek to modify the injunction.

I made a telephone call to an attorney named Jay [p. 22] Secullo (phonetic), who likewise appeared in the those proceedings for Operation Rescue, left a message on his voice mail, did not get a return call.

I spoke personally with the attorney in Houston who represents Operation – I mean the Defendant Rescue America who advised me that while he was not representing Rescue America in Florida, he would be sure that they knew about the hearings and would pass the papers on to his clients.

THE COURT: Counsel, I appreciate those recitals, but they're here. They're represented by counsel. He's interposed a partial objection and I've honored that. Aren't we ready to proceed?

MR. D'ALEMBERTE: We are, Your Honor.

THE COURT: Counsel, do you agree?

MR. WEISS: Yes, sir, Your Honor.

THE COURT: All right.

MS. PATRICK: We call Dr. Snydle to the stand, please.

THE COURT: Is he outside?

MS. PATRICK: Yes, sir. He is.

WHEREUPON:

FRANK SNYDLE

a witness herein, having first been duly sworn, was examined [p. 23] and testified as follows:

DIRECT-EXAMINATION

BY MS. PATRICK:

Q Would you tell the court your name, please.

A Frank Snydle.

Q Are you a licensed medical doctor?

A Yes, I am.

Q For how long have you been a licensed medical doctor?

A For thirteen years.

THE COURT: Doctor, spell your last name, please.

THE WITNESS: S as in Sam, N as in Nancy, Y, D as in dog, L – E.

THE COURT: All right. Thank you.

Q Where are you employed, Dr. Snydle?

A I have a private practice in Haines City, Florida. And, I'm also medical director at the Central Florida

Women's Health in Orlando, Florida. And, until recently I worked at Aware Woman in Melbourne, Florida.

Q Until how recently did you work at Aware Woman Clinic in Melbourne, Florida?

A This past Thursday.

Q Did you work at the work at the Aware Woman Clinic in Melbourne, Florida providing abortion services to its [p. 24] patients?

A Yes, ma'am.

Q Have you been in attendance at the clinic treating patients on days when the Defendants Operation Rescue and Rescue America have staged demonstrations there?

A Yes, ma'am.

Q Would you describe to the court what you have observed on those days?

MR. WEISS: Your Honor, if I may interpose an objection at this time, to the use of this generic term "Operation Rescue." We have specific named individuals here that sanctions are being sought against.

And, I think that generic reference is not going to cut it with to specific individuals that they're seeking you to hold in contempt.

MS. PATRICK: Your Honor, we also sought contempt against the organizational entities, so the evidence is relevant to that as well.

THE COURT: On my review of the file, I think that's one of the questions that came to mind is what type

of legal entity is Operation Rescue and Operation Rescue America and Operation Goliath?

MS. PATRICK: Your Honor, we will provide evidence to the Court that they are an unincorporated association of individuals. In the case of Operation Rescue, many of [p. 25] them travel the country engaging in ligates.

It is a group of – They do have an organization scheme. They have entity. They are not technically a corporation or partnership, but an unincorporated association of individuals.

THE COURT: What is the ability of the court to enforce its order against a non-legal entity?

MS. PATRICK: The ability of the court to enforce its order against a non – The fact that it's not a corporate form, Your Honor, does not preclude the court from, for example, attaching bank accounts held in the names of Operation Rescue, which exist to my knowledge.

From calling in officers and directors, there are people who call themselves the national director of Operation Rescue.

The Defendant Cadle describes himself as the southeast regional director of Operation Rescue.

Just as with a corporation, the court can enforce the – its orders by commanding the officers who control the entity to take certain steps to correct wrongful acts.

THE COURT: It would seem to me more proper to have individuals named in their representative capacities than non, you know, nonpersons named as a defendant.

MS. PATRICK: Well, Your Honor, Defendant Cadle is [p. 26] named both individually and in his representative capacity as the regional director of Operation Rescue.

Defendant Martin is named both individually and in his capacity –

THE COURT: I understand that. But again it's, you know, the problem is identifying for enforcement purposes, if I grant your motion, a proper legal entity that the court can subsequently deal with if there is violation. And, I have that problem right now.

MS. PATRICK: Yes, sir. Let me see if I can help the court. In other instances, Operation Rescue, as an entity, has been found in comtempt [sic] of court as an entity.

MR. WEISS: Your Honor, I would object at this point. We've got a lawyer who's doing the testifying here. If she wants to climb up on the stand and testify what's happened all over the country, that's fine.

But, my permission to grant her parole – I assume the court is granting her that.

THE COURT: Yes.

MR. WEISS: Is not to get on the stand. And, if she wants to testify, let's call her on the stand.

MS. PATRICK: Your Honor –

THE COURT: Well, I think as an officer of the court, she can describe what – how other courts have solved like problems. And, that's what I'm concerned [p. 27] with.

MS. PATRICK: And, I understand the court's concern. But, think about it in this way. Put aside the issue on which these people are engaged. Think about a labor union, which is an unincorporated association of individuals.

Labor unions as entities can be found in contempt of court. They can be enjoined and orders against them can be enforced.

There are cases that we have provided to the court, older Florida cases in which just that has occurred. That is the unincorporated association has been joined – has been found to be in violation of an order and has been sanctioned.

In terms of the court's –

THE COURT: Counsel, I've not been able to have an opportunity to review those cases. But, if you say Florida solved that problem, fine. Let's go ahead.

MS. PATRICK: All right.

Q Have you observed, Dr. Snydle, members of the Defendant Operation Rescue engaging in demonstrations outside the Aware Woman Clinic on days that you were providing abortion services to patients there?

A Yes, ma'am.

MR. WEISS: Object to the form. First of all, it [p. 28] hasn't been established that he knows who the members of this organization are as such.

THE COURT: Insufficient foundation or predicate at this point.

Q Dr. Snydle, have you, during your practice as an abortion provider in Central Florida, become familiar with persons who identify themselves as members of Operation Rescue?

A Yes, ma'am. And, of Operation Goliath also.

Q Would you tell the court, the names of people you know to be associated with Operation Rescue from your personal observations.

A Bruce Cadle, Ray Unterberger (phonetic), something like that, Meredith Raney, Ed Martin, other names that I can't remember right now, but that I would recognize.

THE COURT: All right. If [sic] would pull the mike over to the center. That's fine.

Q And, on the days that you have been providing abortion services at the clinic, have you seen Bruce Cadle, Meredith Raney, Ed Martin, Roy Unterberger, and others who you know to be associated with Operation Rescue conducting demonstrations at the clinic?

A Yes, ma'am.

MR. WEISS: Your Honor, I think if we are going to sanction, the time frame after the date you entered your [p. 29] order, we're trying to hold these people in

contempt of your order, I think it's important that we establish a time frame.

What may have happened eight, ten years ago is irrelevant here today. It's postentry of your order.

MS. PATRICK: If I could proceed one question at a time, I believe I can tie it up.

THE COURT: If you would, please.

MS. PATRICK: Thank you.

Q You may answer the question. Have you observed those individuals engaging in demonstrations at the Aware Woman Clinic?

A Yes, ma'am.

Q Were those demonstrations after you understood that an injunction had been entered protecting the clinic?

MR. WEISS: Objection, Your Honor. What he understood the date of the order is irrelevant, the date –

THE COURT: That's the next question.

A Yes, ma'am.

Q Okay. Do you have knowledge of when the injunction was granted in favor or the clinic?

A Well, I know that it was several months ago, perhaps up to a year ago. And, I've seen them active as recently as one or two months ago.

Q Would you describe for the court what you have [p. 30] observed the defendants Raney, Cadle, Martin, and others associated with Operation Rescue doing in

front of the Aware Woman Clinic for Choice on days that abortion services are provided there?

A They were there and very vocal, yelling at the patients, yelling at the me [sic], trying to stop cars from entering the clinc [sic] parking lot, including my car.

Q Have you observed them yourself in front of the driveway to the clinic?

A Yes, ma'am.

Q Who did you observe there?

A Mr. Raney, Mr. Cadle, Mr. Unterberger or Unterbarger, whatever his name is.

Q Have you observed that cars attempting to enter the parking lot for the clinic have difficulty negotiating the entrance when those people are blocking the driveway?

A Yes, ma'am.

MR. WEISS: Object to the form. It's leading.

A Yes, ma'am.

THE COURT: Ask him to describe the action.

Q Would you describe what happened to cars that attempted to enter the driveway on days when the demonstrators are there?

A If they see that a car is going to turn in, they usually run up around it and in front of it and try to stop it [p. 31] from entering –

Q Now, Doctor –

A – and try to hand out information through the window, even if the window is closed. They try to push it through the closed window.

Q Doctor, have you had occasion to treat patients who come to the clinic for abortion services after you have observed their cars accosted in that manner?

A Yes, ma'am.

Q Would you describe for the court what you have observed the effect on your patients to be on those occasions?

A Many of them are very anxious. Some of them have physical manifestation of hypertension, cardio arrhythmia, specifically tachy arrhythmia, rapid heart beat.

Q What about their respiration?

A Increased respiration, fear.

Q Do you have an opinion, Doctor, to a reasonable degree of medical certainty as to the cause of those symptoms?

MR. WEISS: Your Honor, I'm going to interpose an objection. We don't have the name of a single patient that we're talking about. We don't have the dates that any of this occurred.

Now, we're going to what is a legal opinion as to the condition of an unnamed person on an unnamed day. I think we're entitled to go into all this.

[p. 32] THE COURT: Yes, but it would be by way of cross-examination, counsel. He has indicated, I

believe, Doctor, you are saying that these are things you observed within the last couple of months?

THE WITNESS: Yes, sir.

THE COURT: That pertains to your response at this time?

THE WITNESS: Yes, sir.

THE COURT: All right.

Q Doctor, so that it's clear, I'm going forward on the basis unless I tell you otherwise, we're talking about your observations during the period after the injunction was entered. Okay?

A Yes, ma'am.

Q All right. Now, do you have an opinion, Doctor, to a reasonable degree of medical certainty as to what has caused the symptoms, the physical symptoms of anxiety you observed in your patients on the date you were providing abortion services?

MR. WEISS: Object to the form, Your Honor. It's improper foundation. That is certainly not grounds for the basis of a professional, a doctor's opinion.

We don't have a patient. We don't have a date. We don't have symptoms. It's just this broad generalization that everybody that walked in there has all these [p. 33] terrible problems.

It's improper foundation.

MS. PATRICK: Your Honor, may I be heard?

THE COURT: Surely.

MS. PATRICK: We have asked Dr. Snydle about patients to whom he was providing abortion services on the days that he observed demonstrators there.

He has already testified to the physical symptoms that he's made manifest.

He is a licensed medical doctor. He has practiced medicine for over nine years. There is no question as to his qualification to provide those opinions.

I think it is important for the court to understand the general effect that a defendants' conduct, for which we seek contempt, has had, so that it can properly fashion a remedy.

THE COURT: Well, you know, the doctor's response is not, you know, pegged to any particular individual. I don't think it needs to be. But, of course, it would be subject to cross-examination as to, you know, specific dates and times.

But, I'm troubled with the aspect of whether we're talking about one out of a hundred or fifty out of a hundred, or whatever the percentage.

MS. PATRICK: I think I can clarify that.

[p. 34] Q Dr. Snydle, would you tell the court what portion of the patients to whom you were providing abortion services at the Aware Woman Clinic exhibited physical symptoms of anxiety on days when demonstrations occurred?

A It would be very difficult for me to estimate that. But, as an example, if I may give an example, we have had several women who have come into the clinic who

have been there previously for gynecological examination who have had normal blood pressure readings. And, then on the day that they came for an abortion, would have very elevated blood pressure readings with no background –

MR. WEISS: If I may –

A – past background –

THE COURT: Doctor, when he stands and makes an objection, you need to stop right then and give him a chance to make the objection.

MR. WEISS: Your Honor, I would like to interpose an objection at this time and move that the testimony be striken [sic] with respect to the words out of his own mouth. The question was what portion of the patients exhibit these symptoms. The answer was that would be difficult for me to estimate.

Everything else beyond that should be stricken as being unresponsive to the question.

THE COURT: Doctor, you have to listen to the [p. 35] specific question and give it a specific answer. If counsel wants further testimony or for you to expand or particularize, let her ask the question, please.

THE WITNESS: Yes, sir, Your Honor.

THE COURT: Sustain the objection. Grant the motion to strike.

MS. PATRICK: Thank you.

Q Dr. Snydle, on how many occasions on days when demonstrations are occurring in front of the clinic

have you had to turn away an abortion patient because the symptoms of anxiety?

A I would say at least one.

MR. WEISS: Your Honor, if I could interpose an objection. The physical symptoms of anxiety are not necessarily in anyway tied to the actions – If a woman decides to kill her own baby, maybe anxious about that, an infinity of actions.

THE COURT: You can cross-examine, counsel. But, that's not the basis of an objection. You may proceed.

Q I believe you were telling the court about one instance in which that occurred.

A Well, it's occurred in more than one instance. But, I would say at least one – It varies. One out of every three days probably that we work with demonstrators there, we will have to send people away. And, some of those women have told [p. 36] me that they are anxious because of the people outside.

MR. WEISS: Objection, Your Honor, hearsay.

MS. PATRICK: Your Honor, a statement in the course of diagnosis –

THE COURT: He can relate what hears from others.

Q I'm sorry. You were saying that some of those patients have told you –

A Yes, ma'am. And, they tell that they have had no history of hypertension. And, in a few cases we have that documented in the charts in the clinic.

Q All right. And, in those instances where patients have no documented history of hypertension and they exhibit phsycial [sic] symptoms of hypertension on the days demonstrations are occurring, do you have an opinion to a reasonable degree of medical certainty as to the cause of the hypertension that your patients exhibit?

MR. WEISS: Objection, Your Honor, no proper foundation.

THE COURT: Well, spell it out.

MR. WEISS: There is no establishment. We're talking about patients in general, none in specific. We don't have any of the charts or any of the medical information.

We're dealing with this hypothetical person on a hypothetical day, possibly one in three. And, now we're [p. 37] rendering a professional medical on an unnamed, undefined patient on an unspecific day.

And, I think there is an improper foundation for him to render that opinion.

THE COURT: Again, those are matters I believe you can explore by cross-examination. But, the court will permit her to proceed. Overruled.

Q Do you have need of the question back, Doctor?

A Yes, ma'am, please.

Q On those days when you have observed physical symptoms of anxiety in abortion patients who report no prior history of hypertension and on those days when demonstrations have been occurring, the patients that

you turn away, the one out of three times I believe you said you had to turn them away, do you have an opinion to a reasonable degree of medical certainty as to the cause of the physical symptoms of anxiety that those patients exhibited?

A Yes, ma'am.

Q What is your opinion?

A I believe that it is because of the protesters around the clinic yelling and screaming at them.

Q And, Doctor, in those patients that you do not have to turn away, but who, nonetheless, exhibit physical symptoms of anxiety, can you tell the Court what effect that has had on their ability to obtain the treatment for which they came to [p. 38] the clinic?

MR. WEISS: Object to the form, Your Honor, leading.

THE COURT: Overruled.

Q You may answer.

A Yes, ma'am. They seem to show more resistance to medical – medicines used as analgesics. And, to help sedate them, it takes a higher level of sedation in those individuals that are more anxious and more disturbed by the people outside.

Q And, what effect does the higher level of sedation have, Doctor, on the level of risk associated with the surgery?

A It increased the risk.

Q Now, Doctor, are you aware of any instances in which an abortion patient has been turned away from the clinic because of demonstraters [sic] blocking the driveway to the clinic who had later come back another day?

A Yes, ma'am.

Q All right. On how many occasions have you become aware that that occurred?

MR. WEISS: Your Honor, I'd interpose an objection. There's no proper predicate as to how he's inside the office, how knows [sic] who's being turned away from the clinic on the outside, unless there's a foundation that he saw them being turned away.

[p. 39] THE WITNESS: I have seen that.

THE COURT: Just a moment, Doctor.

THE WITNESS: All right.

THE COURT: Sustain the objection. Insufficient predicate for it at this point.

Q Have you seen personally, Doctor, some of your patients turned away from the driveway of the clinic by the actions of the protesters whose conduct is at issue here today?

A Yes, ma'am.

Q All right. And, would you tell the court, please, whether when a patient is turned away and forced to come back for a procedure on another day, that likewise can have health consequences for them in connection with their abortion procedure?

MR. WEISS: Object to the form, leading.

THE COURT: Overruled.

A Yes, ma'am.

Q Would you tell the court, please, what the consequences are when a patient is forced to delay a procedure due to the presence of protesters in the driveway?

A Well, if they come back later, they are farther along in the gestation. It becomes, as one proceeds farther and farther into the gestation, the procedure becomes more difficult, more time consuming, greater risk for morbidity and [p. 40] mortality.

Q All right. And, Doctor, in terms of the presence of the demonstraters [sic] in the driveway, blocking ingress and egress, do you have a concern as a medical provider at the clinic about that, the effect of that conduct on the facility's ability to deal with emergency matters?

A If there were an emergency and we had to call in an ambulance, for example, if there's the presence of an eptopic pregnancy or uncontrollable bleeding or whatever happens happens [sic], it would be very difficult for the emergency medical team to get through the blockade.

Q And, what would a delay in the provision of emergency services –

THE COURT: Doctor, have you ever – You're being theoretical I gather. Has that ever happened where an ambulance has sought to come to the premises and been interfered with?

THE WITNESS: Yes, sir. Not in Melbourne, in Orlando.

THE COURT: Go ahead.

Q And, what effect does the delay in the provision of emergency services have on your patients, Doctor?

MR. WEISS: Your Honor, I will interpose an objection. He has just testified it didn't happen in this court's jurisdiction. So, what effect it might have [p. 41] had in another jurisdiction is not the subject of this sanction.

THE COURT: I was concerned that he was speaking theoretically rather than from having observed any. He states he has knowledge of the matter. I'm going to let him testify to that.

Q What effect does the delay of provision of the emergency services, Doctor, have on the patient that requires them?

A It certainly increases the risk.

Q Now, Doctor, have you personally been the subject of harassment by the defendants Bruce Cadle, Meredith Raney, and Ed Martin?

A Yes, ma'am.

Q All right. What I would like to do is have you tell the court about that briefly.

MR. WEISS: Your Honor, I would like to interpose an objection. I want it to meet the dates that this happened. You entered an order. And, I think all this has to be postentry of your order. I think it's irrelevant, the whole line of questioning unless it postdate of the entry of your order. And, I don't think that's been established that he knows the date it was.

MS. PATRICK: The witness has testified, Your Honor, that he thought the injunction was entered some, about a [p. 42] year ago. He's knowledgeable of the entry of the injunction. I have previously instructed the witness to limit his –

THE COURT: Let's fix, if we can, the approximate, the date and place as part of the predicate to the answer.

MS. PATRICK: Your Honor, I was just telling the court what we were going to do next. I haven't asked the witness a question.

THE COURT: Okay. Thank you.

Q Dr. Snydle, what I would like to do is to show you some exhibits and ask you, if you can, whether you have seen these exhibits in the period since the injunction was entered protecting the Aware Woman Clinic. All right?

A Yes, ma'am.

MS. PATRICK: May I approach the witness, Your Honor?

THE COURT: Yes. Counsel, people are coming and going from the courtroom. I'll have to trust to you to let me or the bailiff know if your witnesses are here.

MR. WEISS: It sure would be awful courteous if they'd furnish me a copy since I haven't – I haven't seen any of the exhibits and that they're approaching the witness with. I'd kind of like to see them.

MS. PATRICK: Your Honor, we attempted to confer with counsel on the exhibits. I will certainly show

him [p. 43] the exhibits. But, I think the court needs to understand that we have tried for the last twenty-four hours to confer with counsel and he has been unavailable.

THE COURT: That's what Mr. D'Alemberte said, that you were unable to –

MR. WEISS: Some of us go to church on Sunday.

THE COURT: Pardon.

MR. WEISS: Some of us go to church on Sunday.

MR. D'ALEMBERTE: Not on Monday morning, Your Honor.

MS. PATRICK: That's right.

THE COURT: Some may even go on Monday morning, but that's not – Counsel, if you will, for the record identify the proposed exhibit by whatever number the clerk has put on it.

MS. PATRICK: Yes, sir. We're going to show the witness what has been marked as Plaintiffs' Exhibit M as in Michael, M.

Q All right. Dr. Snydle, since September thirtieth of 1992, have you seen that wanted poster distributed in the Melbourne area about you?

MR. WEISS: Your Honor, she offered that document into evidence. He's testified and that document is not in evidence. I think it's inappropriate.

MS. PATRICK: Your Honor, I think the procedure is I mark the exhibit. I have the witness identify it. And, [p. 44] then I offer it.

THE COURT: Yes. Uh-huh.

Q Can you identify –

THE COURT: It's premature, your objection.

Q Can you identify that wanted poster, Doctor, as a document that you have seen circulating in the area of the Aware Woman Clinic since entry of the injunction September of 1992.

A There are three different wanted posters. And, I believe this is the first one which was probably before the injunction.

Q All right. Have you seen wanted posters similar in type since the entry of the injunction?

A Yes, ma'am.

Q All right. Tell the court then about what those wanted posters, what the effect – what their effect has been on you?

A When I first saw this first, this first wanted poster it was one of incredulity that –

MR. WEISS: Your Honor –

A – anybody could do anything like this legally.

THE COURT: Just a minute, Doctor.

MR. WEISS: I would like to have an objection now. He's testifying about a document that hasn't been

offered into evidence, the effect of a document that [p. 45] hasn't even been introduced yet. I do think it's premature for him to testify about the effect of a document that hasn't been introduced.

And, I would ultimately like to voir dire on this document prior to its being accepted.

THE COURT: Do you seek to admit this document?

MS. PATRICK: No, Your Honor. I'll address, I'm going to ask the witness generally since he has identified this particular document as one that predates the injunction and indicated that there are two others subsequent to the injunction, I'm just going to ask what the effect has been on him of knowing that there are wanted posters circulating with his name on it.

The witness has testified earlier that he has ceased to work at the Aware Woman Clinic. And, this is part of our proof as to the harm that has been sustained by the clinic as a consequence of the overall climate of fear that has been created.

So, I'm not asking the witness to testify to the contents of the document. I'm asking him the effect that it has had on him.

THE COURT: Well, I think the court and the record needs to know what a wanted poster is.

MS. PATRICK: All right. At this point then, Your Honor, I'm going to offer Exhibit MM as an exemplar of [p. 46] the type of poster that has been identified by the witness.

MR. WEISS: May I voir dire briefly?

THE COURT: Yes, sir.

VOIR DIRE EXAMINATION

BY MR. WEISS:

Q Dr. Syndle, why don't you read to the judge who the author of the document is in the lower left hand corner. Who's that?

A Women's Legal Action Coalition, Post Office 362384, Melbourne, Florida, 32936.

Q Okay. Now, is that entity made up of Ed Martin, Judy Madsen, or Shirley Hobbs?

A I don't know, sir.

Q And, that document predates the entry of this court's order involving sanctions and it does not – it has not been circulated by any of these defendants since the entry of the order; correct?

A To the best of my knowledge, no.

MR. WEISS: Okay. Your Honor, I would –

MS. PATRICK: If I can complete the foundation, I can – I'll tie it up. Without regard to his clients, there are other people against whom we are seeking contempt.

[p. 47] THE COURT: Go ahead.

DIRECT-EXAMINATION

CONTINUED BY MS. PATRICK:

Q Dr. Snydle, are you familiar with an organization knows as the Women's Legal Action Coalition?

A Yes, ma'am.

Q Do you know whether any of the people you have identified as affiliated with the Defendant Operation Rescue are likewise the Associated with the Women's Legal Action Coalition?

A I believe Meredith Raney is.

Q All right. Have you seen documents to indicate that?

A I've seen a letter with this letterhead with his signature at the bottom.

MS. PATRICK: All right. Your Honor, then we would offer again Defendants' (sic) Exhibit MM as evidence of conduct undertaken by the defendants. It is as an example only because as counsel has pointed out, it predates the injunction.

The witness has, however, indicated that two other posters similar to this one circulated after the injunction. And so, I think the court needs to understand the generic type of document we're talking [p. 48] about.

MR. WEISS: I have to interpose an objection. It's irrelevant and immaterial. It's not a defendant to this action. This all predates the entry of the sanctions.

They're seeking to hold my clients in contempt of your order.

THE WITNESS: Meredith Raney is –

MR. WEISS: This entity that they're making reference to is not a named defendant in this cause, Your Honor.

MS. PATRICK: Your Honor, Defendant Raney has been identified by the witness as associated with the Defendant Operation Rescue.

We are putting on proof, not only as to counsel's clients but as to others as well. I understand counsel needs to defend his clients, but he's done that. He's pointed out that this document does not pertain to his clients.

That does not preclude me from offering proof as to other defendants.

THE COURT: Doctor, the other two posters that you have referenced to, are they later in time after the injunction?

THE WITNESS: Yes, sir.

THE COURT: And, do they bear a like authorship?

[p. 49] THE WITNESS: Yes, sir. The picture on the very last one is different than the first two, my picture, wanted picture. But, that's about the only difference.

THE COURT: Is the content substantially the same?

THE WITNESS: Yes, sir.

THE COURT: The court will admit it as it relates to the Defendant Raney.

MR. WEISS: All right. I think it's worth explaining Meredith Raney is not a defendant. He has never been served.

THE COURT: I'm sorry. I was under the impression he was.

MS. PATRICK: He is a defendant in the contempt proceeding. He is one of the people against whom we have sought contempt. He's a member of Operation Rescue. He's the entity – the person, one of the people through whom the entity acts, the Defendant Operation Rescue against whom we seek contempt.

THE COURT: . His relationship to that organization is what, please.

MS. PATRICK: It has been testified to by the witness as – the witness has personal knowledge that he's associated with Operation Rescue as are Bruce Cadle, the Unterberger gentleman that he indicated earlier.

MR. WEISS: Your Honor, I don't think there's been a [p. 50] proper predicate that this party knows who this – First of all, Mr. Raney, as you know, is not a named defendant in this cause. It's not been established –

THE COURT: Well, I was mistaken. I thought in opening statement that it was recited that he was. But –

MR. WEISS: I don't see any attempt to serve him either, Your Honor.

THE COURT: All right, now. I'll stand corrected on that.

Counsel, you're saying that he's been in the leadership of Operation Rescue?

MS. PATRICK: Yes. Of the work that they're doing here and an entity called the "Impact Team" as to which we will offer evidence from other witnesses.

THE COURT: Okay. Again, Doctor, what is Raney's relationship to that document?

THE WITNESS: As far as I know he's a member or leader in the Women's Legal Action Coalition. And, that's the people who have promulgated this wanted poster and the other wanted posters.

MR. WEISS: Your Honor, may I just briefly voir dire?

THE COURT: Yes.

VOIR DIRE EXAMINATION

[p. 51] BY MR. WEISS:

Q Mr. – is is [sic] Snydell or Snydle?

A Snydle.

Q Mr. Snydle –

MS. PATRICK: Excuse me, Your Honor, the witness is a medical doctor and if he could please be addressed as a physician.

MR. WEISS: I apologize to the court.

Q Doctor, you of your own personal knowledge and under oath know as a matter of fact that Meredith Raney

is associated with Women's Legal Action Coaltion [sic]? You know that of your own personal knowledge?

A He used letterhead with his signature on the bottom of the letterheads. So, he must want to be associated with them if he's not.

Q I didn't ask you whether – I said do you of your own personal knowledge know if Mr. Raney is associated with Women's Legal Action Coalition and this wanted poster?

A Has he told me that personally?

Q Yes.

A No. He has never told me that personally.

Q And, do you of your own personal knowledge know of any relationship whatsoever between Women's Legal Action Coalition and that Rescue America, my client Ed Martin or Judy Madsen, and Shirley Hobbs?

[p. 52] A I don't know that for a fact. No one has told me that.

MR. WEISS: Your Honor, without a proper foundation I would move that the document not be admitted.

MS. PATRICK: Your Honor, counsel very carefully again limited his questions to his clients. The witness has established a foundation as to the admissibility of the document as to Operation Rescue.

To refresh the court's memory, I'll be happy to ask those questions again if it will be helpful.

THE COURT: Let me clarify it with counsel. You are representing who, please?

MR. WEISS: This gentleman Ed Martin, this lady Judy Madsen, Rescue America, and Shirley Hobbs. And, they're the folks that they're seeking sanctions. I don't think they're seeking sanctions against somebody they haven't served. Mr. Raney has not been served. I don't see what possible relevance this could –

THE COURT: He was present and left the room as a potential witness?

MR. WEISS: No.

MS. PATRICK: Yes, Your Honor.

MR. WEISS: Yes.

MR. CADLE: Your Honor. I'm Bruce Cadle, also a defendant desiring to represent myself in these [p. 53] proceedings.

Meredith Raney did leave the room. He was present. He was called as a witness. He has no knowledge that he is a defendant in these proceedings. He's never been named as a defendant in these proceedings and is waiting outside waiting without counsel and no knowledge that he is a defendant.

This court previously, Your Honor, determined that anyone who is not a named defendant could not be held responsible under these proceedings, under this existing court order and under Judge Hall.

Sheila Eshenberg (phonetic) came to this court. No evidence was allowed to heard against her subject to the

contempt hearing because she was not a named defendant as neither is Meredith Raney.

THE COURT: But, it's being represented to the court that he is within the leadership of –

MS. PATRICK: The defendant Operation Rescue.

THE COURT: – Operation Rescue. To that extent –

MR. CADLE: Not only is that no accurate, Your Honor, but there is no –

THE COURT: I can't deal with that, whether it's accurate or not, it's being represented.

MR. CADLE: Should Mr. Raney get counsel then? He does not know that he is a defendant in these [p. 54] proceedings.

THE COURT: Well, he's not. He personally, apparently, has not been served. But, to the extent that he is a representative of one or more organizations, things that he does in furtherance of the organization, you know, are germane to the issue before this court.

MR. CADLE: Should he be present then and not sequestered.

THE COURT: No. He's going to be a witness as far as I can tell. It's very troublesome dealing with organizations that are not legal entities.

MS. PATRICK: Candidly, Your Honor, that's one of the difficulties faced by the clinics. And, as you'll see as we go forward the ability of these defendants to

adopt new names and use the same tactics and so on creates considerable difficulty.

But, the fact is that this witness has testified that he knows of the relationship of the Defendant Raney to the Women's Legal Action Committee, that he also knows of the relationship of the Defendant Raney to the Defendant Operation Rescue.

And, this wanted poster is being offered as an example of the tactics that have been used against this doctor.

THE COURT: It's a tactic apparently by no one here [p. 55] named as a defendant. It bears the imprint of an organization not named.

MS. PATRICK: Your Honor –

THE COURT: And, he's testified the other two or likewise. Perhaps, you know, when the witness Raney is called you maybe able to establish that whatever he did with this poster he did with – for one or more –

MS. PATRICK: Duel capacities.

THE COURT: – organizations. I'm going to have to sustain the objection at this point.

MS. PATRICK: All right, Your Honor. May I ask the court, I believe I will be able to make that tie up. I would like for the smoothness and flow of the proceedings to go ahead and ask the witness about the effect that this poster has had, on my representation that I will tie it up. If I don't, the testimony can obviously be stricken. But, that seems to be an efficent [sic] way to go forward.

THE COURT: Yes, you may proffer.

MS. PATRICK: All right. We will now proffer the testimony of Dr. Snydle as to the effect of the wanted poster on him.

PROFFER

BY MS. PATRICK:

[p. 56] Q Dr. Snydle, would you tell me how you felt when you saw this flier?

A Very concerned because my in my estimation it was a thinly veiled attempt to have one of the lunatic fringe assassinate me or kill me. It says a thousand dollar reward, wanted, my picture.

And, in fact, many patients called my office to find out if I was really wanted by the police. My next door neighbor thought – he's from England – thought that I was wanted by the police until my father told him otherwise.

Q All right. Now, I would like to show you, Doctor –

MS. PATRICK: That would conclude the proffer of the testimony, Your Honor.

Q I would like to show you, now, what we have marked for identification as Plaintiffs' Exhibit Forty-four – I'm sorry, forty-six. I'm sorry, it's zero not a six, exhibit forty.

THE COURT: For the record, identify the letter on the backside, please.

Q Doctor, I would like to show you what has been marked as Plaintiffs' Exhibit NN.

A Yes, ma'am.

Q Can you identify it for the court, please?

A Yes, ma'am. This was a sheet of paper that was placed on cars in the parking lot of the Comfort Inn when I [p. 57] stayed there approximately a month ago.

Q All right. Doctor, would you recount –

MS. PATRICK: We would offer Plaintiffs' Exhibit NN at this point, Your Honor.

MR. WEISS: May I place an objection? There has been no showing whatsoever that that is any way connected with the activities of the defendants that are before the court at this point.

THE COURT: Sustain. Insufficient predicate.

Q Dr. Snydle, would you tell the court please what happened at the Comfort Inn when you stayed there approximately a month ago? Specifically with regard to actions that you observed on the part of Operation Rescue, the people you have identified as Operation Rescue personnel.

MR. WEISS: Objection, Your Honor. It's vague, the question is vague and ambiguous. We've got to have some names here. If we're going to hold folks in contempt, I want to know who violated it.

MS. PATRICK: Well, Your Honor, the witness –

THE COURT: I'm troubled. Can he relate the source of that document?

MS. PATRICK: Yes, he can, if I may proceed?

THE COURT: Get him to do that first, please.

Q All right. Doctor, did you see that leaflet being handed out at the Comfort Inn by persons affiliated with [p. 58] Operation Rescue when you were staying there?

MR. WEISS: Same objection, Your Honor. It's vague and ambiguous. Persons affiliated with. I want names. This guy says he knows who they are. I want to think there's a predicate. If he knows some of the named defendants it's perfectly all right to tell.

MS. PATRICK: Let me back up. I'll do it this way.

Q On the date you were staying at the Comfort Inn, in connection with the incident that you were about to recount, did you see the Defendant Bruce Cadle there?

A Yes, ma'am. I did.

Q Did you see the Defendant Bruce Cadle's wife there?

A Yes, ma'am. I did.

Q Did you see the Defendant Bruce Cadle's son there?

A Yes, ma'am. I did.

Q What is the Defendant Bruce Cadle's position in Operation Rescue to your knowledge?

A He's one of the higher echelon. I don't really know exactly what his title is proclaimed to be.

Q All right.

A But, definitely associated with it.

Q Did you see the Defendant Raney there?

A No, ma'am. I don't recall that.

Q Did you see the Defendant Ed Martin there?

A No, ma'am. I don't recall that.

[p. 59] Q All right. Did you see the Defendant Judy Masen there?

A No, ma'am. I don't recall that.

Q Did you see a person known as Keith Tucci there?

A I don't even think I know who Keith Tucci is.

Q All right. Doctor, would you tell the court, please, what happened to you a month ago at the Comfort Inn? Is this the Comfort Inn that's down the way from the Aware Woman Clinic?

A Yes, ma'am. It's on Wickham Road.

Q All right. Why were you staying at the Comfort Inn about a month ago?

A I was to work at Aware Woman the following day. Instead of driving all the way from Haines City, Florida, which is a good two hour drive, I worked in Orlando that particular afternoon and then – which was a gynecology clinic. And, then decided just to drive to Melbourne and stay over night there, which would make my evening a little bit easier.

Q All right. And, what happened when you got up in the morning and came downstairs to head off to work?

A When I was about to check out, there were probably six or seven people in the lobby who immediately got right in my face with their V.C.R. cameras and their flash photo cameras and tried to accost me and called me a murderer and a [p. 60] butcher and this man performs abortions.

MR. WEISS: Your Honor, I would object to his testimony. This testimony has not in any way named any names of any of the named defendants in this case.

THE WITNESS: One of them was Bruce Cadle's son.

MR. CADLE: He is not a named defendant.

MS. PATRICK: Your Honor, we've gone through with this. Counsel may not want to acknowledge that there were, in fact, people who are named defendants there and that they did, in fact, instigate actions on the part of others. But, this witness has testified that Bruce Cadle was there, that his wife was there, and that his son was there, and is about to offer testimony as to actions the son took.

THE COURT: That's a sufficient tie.

MS. PATRICK: All right.

THE COURT: Overruled.

Q Now, you were saying that these people came up with there [sic] video cameras and –

A Yes, ma'am.

Q – their flash bulbs?

A Yes, ma'am.

Q How close did they get to you, Dr. Snydle?

A Within a foot.

Q Were they talking in a normal tone of voice?

[p. 61] A No. They were yelling. In fact, one gentleman there, I don't recognize him the court today, was claiming to everybody who could listen that I was an abortionist who traveled all over the country murdering children and other vile kinds of things.

Q All right. And, did you see this leaflet marked as Plaintiffs' Exhibit NN in connection with that activity?

A Yes, ma'am.

MS. PATRICK: All right. We would offer Plaintiffs' Exhibit –

MR. WEISS: Your Honor, I move to strike that last question and answer. It's based on a document that the court ruled is inadmissible.

MS. PATRICK: Your Honor, I'm establishing a foundation. The witness has said that he saw this in connection with the activity.

THE COURT: Overruled.

MS. PATRICK: Your Honor, we offer Plaintiff's Exhibit NN.

MR. WEISS: May I voir dire, Your Honor?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. WEISS:

Q Doctor, "Child killer inside Comfort Inn, Frank [p. 62] Snydle, a known child killer." Do you know who authored this document?

A No, I don't.

Q Was this document in the possession of any of the defendants in this case? Bruce Cadle? Judy Madsen? Ed Martin? Shirley Hobbs? Did you ever see –

A I have no idea.

MR. WEISS: Your Honor, I'm going to move that this document not be admitted. We don't know the source of the document. He never saw it in the possession of any of the named defendants in this case.

MS. PATRICK: Your Honor, it is res gestae. He has testified he saw it at the Comfort Inn in connection with the activity. It was pertinent to what happened to this doctor on that day.

It is res gestae. I'm certainly not offering this document for the truth of the matter asserted. That is clearly not the purpose.

THE COURT: Doctor, you went from the lobby to the parking lot and it was after your confrontation in the lobby and the documents were on the cars outside? Is that –

THE WITNESS: Yes, sir. And, I saw a gentleman holding some of these that I said I did not recognize in the court today.

[p. 63] THE COURT: Among the six or seven –

THE WITNESS: There –

THE COURT: – that were confronting you in the lobby?

THE WITNESS: I don't think it was one of those individuals. There were about twenty to thirty people outside also.

THE COURT: How do you relate the activity of those outside with those inside?

THE WITNESS: Well, they all seemed to be there for the same purpose.

THE COURT: At the same time?

THE WITNESS: Yes, sir.

THE COURT: Overrule the objection. Let it be received.

(Whereupon, Plaintiffs' Exhibit Number One was admitted into evidence.)

DIRECT-EXAMINATION

CONTINUED BY MS. PATRICK:

Q Dr. Snydle, after these people got what, eight inches from your face and screamed at you that you were a murderer –

THE COURT: He said one foot. You've reduced it a little bit.

[p. 64] MS PATRICK: I'm sorry. I can't see from there.

Q After they got a foot from your face and screamed at you baby killer, what action did the hotel management take at this point?

MR. WEISS: Object to the form. It's leading, sir.

Q What action did the manager take –

MR. WEISS: She's asking what steps did the hotel manager take. That's leading the witness.

MS. PATRICK: Let me break it down into tiny baby steps for counsel, if it's convenient for the court.

THE COURT: No, it's not convenient. But, I'm troubled with what actions did he take. You don't know the basis of how he knows what somebody else did.

Q What did the motel manager say to you, if he did?

A Well, the desk clerk told someone to call the manager. And, an individual came out, told these people in the lobby that they must leave. They did not want to do that.

He actually took one by the arm and headed him out. I don't know what individual that was that he took by the arm and led out.

He asked them please all to leave. Eventually most of them did.

Q Doctor, what happened after those people left? Where did you go next?

A Actually I went and sat down and tried to have a cup [p. 65] of coffee. That's when Bruce Cadle's son came

up with his – with his camera and started taking my picture and telling me I was a paid abortionist and child murderer, et cetera, et cetera.

Q How close was Bruce Cadle's son to you when you were trying to drink your coffee?

A Within two feet or so.

Q All right. How did it make you feel that these people, Mr. Cadle's wife, Mr. Cadle's son had come within a foot to two feet from you and called you a child killer?

A It made me very uncomfortable. They clearly out numbered me.

Q Did you fear for your physical safety?

A Yes, I did.

Q How long did it take you to get to work that morning?

A From what time?

Q From the time they confronted you. Did it delay your arrival at the clinic?

A Yes, it did.

Q How long?

A I'm sorry. I would guess half an hour.

Q All right. Have you been back to that Comfort Inn since that happened, Dr. Snydle?

A No, ma'am.

[p. 66] Q Why not?

A I didn't want another confrontation like that, not only for myself, but I didn't want to put all the people in the hotel through that. I was very uncomfortable.

THE COURT: Doctor, you have referred to Mr. Cadle's son. Have you been able to determine his age?

THE WITNESS: I really can't. I can guess. Approximately, I would say, Judge, around twenty years old, give or take three years either way.

Q Dr. Snydle, I would like to show you what has been marked as Defendants' – Plaintiff's OO. What is the date of that letter?

A The date of the letter is December 29, 1992.

Q Did you receive that letter?

A Yes, I did.

Q Is it addressed to you from Meredith Raney?

A Yes, it is.

MS. PATRICK: All right. We offer Plaintiffs' Exhibit –

MR. WEISS: Your Honor, Meredith Raney is not a defendant in this cause. It's never been established that Meredith Raney has any connection whatsoever with Rescue America, Ed Martin, Judy Madsen, or Shirley Hobbs. Until a nexus is shown, there is no basis to introduce a letter from a non-party. I don't see what possible [p. 67] relevance that letter has. Besides, it's unsigned.

MS. PATRICK: The witness has testified that he received it, Your Honor.

THE COURT: I understand it's the same basis. What is your nexus?

MS. PATRICK: The nexus is earlier that Meredith Raney is associated with the Defendant Operation Rescue. This is an example of the tactics that Operation Rescue, a defendant in this case has used to harass this doctor and prevent him from going to Aware Woman Clinic, which, after all, is what we're talking about. People cannot feel free to go and from the clinic.

We will tie it up with the testimony of Dr. Raney, which, if the court will allow me to proceed, I will proffer the testimony now for that purpose.

THE COURT: All right.

MS. PATRICK: With the court's permission.

THE COURT: All right. You may proceed. Overrule the objection.

PROFFER

BY MS. PATRICK:

Q All right. Doctor, did you receive this letter at or about December 29, 1992?

A Yes, ma'am.

[p. 68] Q All right. Do you know Defendant Meredith Raney by sight?

A Yes, I do.

Q Has he often been close to you physically?

A Yes, he has.

Q Would you describe –

MR. WEISS: Just so the record can be clear, I would like to interpose one more objection. They're making Meredith Raney a focus for the imposition for sanctions in this cause.

It is wholly inappropriate for him to be outside. I invoked the rule of sequestration. That certainly wouldn't be applied to a party that's the principal focus of all these questions.

I'm very concerned about his due process rights being violated by me invoking the rule. If he is going to be at the root of the imposition of sanctions, he ought to be here.

THE COURT: Counsel, you could have named him as a representative of Operation Rescue.

MR. WEISS: He's not a representative.

THE COURT: That may have some status if he's not been served or entered an appearance.

MR. WEISS: He has no relationship with Rescue America, Your Honor. That's my client. My client has [p. 69] not even properly been named in this cause either. If they're –

THE COURT: You are distinguishing that from Operation Rescue? Is it a different organization than Operation Rescue America?

MR. WEISS: There isn't an organization Operation Rescue America. There is an organization Rescue America. It's never been properly named in the pleadings in this case from the beginning to date of these pleadings.

I'm just concerned about Mr. Raney's own due process rights being violated. He's the principal focus of imposition of possible sanctions and he's sitting outside.

MS. PATRICK: Your Honor, he is not a party to these proceedings. He's a witness that counsel seems to want to argue about things that are not at issue.

But, the fact of the matter, this is similar to the testimony concerning an employee that's in a truck accident. The employee doesn't have any right to be there. This is nonsense.

THE COURT: Doctor, again, you know Raney to be an officer or, as you say, higher echelon of which organization?

THE WITNESS: Of that Unity Coalition – Women's Coalition. The names are very confusing. They change. [p. 70] Operation Rescue, Freedom America. It changes regularly. It's very difficult to keep all these names.

THE COURT: Specifically as to Raney.

THE WITNESS: Operation Goliath, also the Women's Coalition or Unity, whatever the name of that one is.

MS. PATRICK: The Defendant Opeation [sic] Goliath is also the target of the contempt proceedings here today.

THE COURT: You don't represent Operation Goliath?

MR. WEISS: No, sir. No, Your Honor.

THE COURT: I'll give him the opportunity to indicate whether or not he wishes to be the representative for Operation Goliath. Mr. Bailiff, go get him, please.

MS. PATRICK: Your Honor, just for clarity or the record, I would indicate Bruce Cadle is the target of the contempt proceedings is also with Operation Goliath. I think he identified himself at the beginning of the proceedings.

THE COURT: Right there will be fine. Mr. Raney, hang on just a minute. I'm going to try to clarify your status.

First, Mr. Cadle, I don't mean to disregard what you may have indicated earlier to the court. You are here in an individual capacity having been named. But, are you here in a representative capacity for any organization?

[p. 71] MR. CADLE: No, Your Honor, I'm not.

THE COURT: Mr. Raney, it's been brought to the court's attention that you have some affiliation with one of the named defendants Operation Goliath and perhaps one of the other, Operation Rescue.

In as much as those organizations are named, they are entitled to have a representative in the courtroom. And, if you are a representative of those organizations, then I want to extend to you the opportunity to be present during all testimony as it would relate to those organizations.

Do you – Are you a representative of those organizations?

MR. RANEY: No, sir.

THE COURT: Operation Rescue, Operation Rescue America, and Operation Goliath, you are not a representative of those organizations?

MR. RANEY: No, sir.

THE COURT: Thank you, sir. You many return outside.

MR. WEISS: Your Honor, based on that, I move to strike and that those exhibits be withdrawn from evidence. Out of the mouth of Mr. Raney, he's just disclaimed any association with these organizations. That's first party evidence.

THE COURT: Made not under oath. And, I think he's [p. 72] entitled to be called as a witness. At that time and under oath, at that time, you know, perhaps the court can make a determination. But, I'm not going to say he's not. And, they can show through his activity that he may be. His pronouncement isn't necessarily controlling.

MS. PATRICK: All right, Your Honor.

Q Did you receive this letter from the defendant – from – I'm sorry – Meredith Raney on or about December 29, 1992?

A Yes, ma'am.

Q Would you tell the court, please, what effect it had on you? Can you –

A Well, it had the effect of being a threat that if I were to work in Melbourne that obviously I would be the target of these people and their field representatives.

Q All right. Were the newspaper articles that are a part of this exhibit attached to it when you received the letter?

A Yes, ma'am.

Q All right. And, the letter refers to the activities planned for Melbourne over the next three months, that is the three months from December 29, 1992?

A Yes, ma'am.

Q What is the last sentence of that letter?

A "You may not want to be a part of it."

[p. 73] Q What was your reaction to that sentence when you received it?

A As I said, to me I interpretted [sic] clearly as a threat.

MS. PATRICK: At this time, based on the ability to tie in the exhibit later, we would offer it. It is certainly pertinent to show the state of mind of this witness as to the effect it had.

THE COURT: And, the signature or identity of the sender?

THE WITNESS: Meredith Raney.

MR. WEISS: It's not signed, Your Honor.

THE COURT: Well, does it have his name on it – in it?

THE WITNESS: Yes, sir. It's on the inside address here of the address Meredith Raney, 2488 Burns Avenue, Sincerely yours, Meredith Raney.

MS. PATRICK: If the court would like to look at it, I have another copy of the exhibit.

THE COURT: Hold it up, sir, so I can compare.

The court notices that in the newspaper articles, they do refer to Operation Rescue, Impact Teams, Operation Goliath.

MS. PATRICK: And, the Defendant Bruce Cadle, I believe, is quoted in the articles, Your Honor.

MR. WEISS: Your Honor, just for whatever it's [p. 74] worth, I do want to interpose an objection. That sure – those newspaper articles constitute double or triple hearsay.

THE COURT: Well, but it's a fact that apparently Mr. Raney, you know, copied them and included them in the letter as part of the contents Raney submitted.

I believe it's, you know, it's relevant. The court will receive it. Doctor, if you would hand that to the clerk again, please.

(Whereupon, Plaintiffs' Exhibit Number Two was received in evidence.)

Q Doctor, since the permanent injunction was issued by this court in September of 1992, have you seen Bruce Cadle or members of his family picketing at your house?

A Not at my house.

Q All right. Have you seen them picketing you other places?

A Yes, ma'am.

Q Where?

A At Aware Woman.

Q All right. Have you seen them carrying signs that bear your name and call you things like a child killer and so forth?

A I can't really remember specifically that they carried a sign with my name on it. But, many of them do. [p. 75] And, whether it was Bruce Cadle or one of the people he was associated with, I can't really testify to that.

MR. WEISS: Move to strike then, Your Honor. The answer is not responsive. The question was have you seen Bruce Cadle carrying a sign. The answer was he didn't see Bruce Cadle doing that.

Q Have you seen persons present at a demonstration, where Mr. Cadle was also present, carrying signs with your name and bearing accusations against you?

A Yes, ma'am.

Q How many –

THE COURT: By the way, let me rule on the objection. Your last questions [sic] was did – were others who maybe carrying signs with the name on it. I believe you testified you could not identify Cadle as one that carried a sign with his name on it. But, he carried a sign while others were carrying signs with his name on it.

I think it's relevant. The court will receive it. Overrule the objection.

Q Have you, other than the time that you were accosted at the Comfort Inn by Mr. Cadle's son and his wife, have you otherwise been accosted by the Defendant Meredith Raney, Mr. Cadle, or other persons you know to be associated with Operation Rescue since the entry of the injunction?

[p. 76] A I don't know what you mean by accosted. Physical assualt [sic] ?

Q Well, are people crowding around you or approaching you, screaming at you?

A Yes. Definitely. And, Mr. Raney also chased me in his pickup truck while we were in Melbourne. And, there's a gentleman in the audience, are [sic] whatever you call it, who can testify to that –

Q All right.

A – as a witness.

Q And –

THE COURT: He hadn't better be in the audience.

THE WITNESS: He's in the court.

MS. PATRICK: He's not going to testify.

Q Would you tell the court what happened when Mr. Raney chased you in his pickup truck?

A Yes, ma'am.

THE COURT: Time and date, please, if you will.

Q When did that happen?

A This was sometime in October, I believe, give or take a samll [sic] amount of time. I was going to leave the Aware Woman's Clinic and Mr. Windle told me that Meredith was sort of parked off in a little area and he said, "I think he's going to try to follow you. So, why don't you go out the back way."

[p. 77] So, I went out the back way and Mr. Windle was following me in his car. And as I got on to Highway One, Mr. Raney pulled out in his pickup truck behind me. And, Mr. Windle and he sort of had a duel down the highway, Mr. Windle trying to block Meredith Raney's truck from approaching my car. When I thought – I was observing this through the rearview mirror.

Q All right. Dr. Snydle, did you pull off the highway?

A Yes, ma'am.

Q Tell the court what happened when you pulled off the highway. Where did you stop?

A I stopped –

MR. WEISS: I just want to interpose an objection. He said sometime about October. Your order was September. I think it's critical that we establish this is after the date of the entry of your order. I don't think this witness can testify to that.

THE COURT: Doctor, can you relate it to the date of the injunction?

THE WITNESS: Yes, sir. It was after the injunction.

THE COURT: You may continue.

Q When you pulled of Highway One, where did you stop?

A I stopped at McDonald's to get a drink on the way [p. 78] back to Orlando.

Q What did the Defendant Raney do – What did Meredith Raney do?

A He pulled up next to me in his pickup truck and looked down and grinned at me and went like that and then drove away and parked.

THE COURT: Doctor, for the record, you held your forefinger extended and your thumb up as if to indicate a gun?

THE WITNESS: Yes, sir.

Q Was that your understanding? How did you react to that gesture, Doctor.

A That he had in his mind shot me.

Q What did that – How did you feel after that happened?

A Fear, revulsion.

Q Did it make you want to go back to work at the clinic?

A No, ma'am.

Q How many times had the defendants Bruce Cadle or Meredith Raney or people associated with Operation Rescue tried to block your access to the Aware Woman Clinic?

MR. WEISS: Your Honor, again the generic term folks associated with Operation Rescue. They're seeking to hold my clients in contempt. I want their questions to [p. 79] be specific with respect to Ed Martin, Judy Madsen, or Shirley Hobbs. And, I think it's critical. They're seeking some rather severe sanctions.

MS. PATRICK: Your Honor, I think I can represent to the court of one question from Dr. Snydle that Mr. Martin and Ms. Madsen, and Ms. Hobbs are not the subject of Dr. Snydle's testimony.

Q Have you, since the injunction, encountered them in any way?

A Yes, I have.

Q All right. Why don't you tell us about that.

A Both at Aware Woman and also at Central Florida Women's Health. I have seen the people mentioned. Judy for one, there with their signs and blocking the driveway –

Q All right.

A – when I came in.

Q And, when did that happen in time, Doctor. Was it after the issuance of the injunction?

A Definitely.

Q And, you've see [sic] the defendant – you've seen Judy Madsen blocking the driveway of Aware Woman?

A Not Aware Woman, but Central Florida Woman's Health.

Q What about Ed Martin?

A Yes, ma'am.

MR. WEISS: Central Florida Women's Health is not [p. 80] located within the jurisdiction of this court. I think if they're to be in contempt of your order it would have to be within the boundries [sic] of your jurisdiction. Your order is very specifically tailored to the counties in question.

MS. PATRICK: I will –

THE COURT: I think he's right.

MS. PATRICK: I think he is to [sic]. I'll clear it up.

Q With regard to Aware Woman, Doctor –

A Yes, ma'am.

Q – that's my question, Aware Woman or Epoc or the other plaintiffs in this action, have you see [sic] the defendant Ed Martin, at any time since the issuance of the injunction, blocking the driveway of those clinics?

A Yes, ma'am.

Q Tell the court about that.

A At Aware Woman, not only Ed Martin, but also Bruce Cadle, and everyone except Judy. I have not seen Judy there.

Q All right.

A Meredith Raney definitely.

Q And, was that at a time you were trying to gain access or did you observe them doing that with regard to others trying to gain access?

A Both.

Q How many times have you seen those defendants [p. 81] attempt to block access to the Aware Woman Clinic by standing in the driveway?

A Since the injunction?

Q Yes.

A At least twice.

Q All right. How many attempts since the issuance of the injunction, Dr. Snydle, have Mr. Cadle or members of his family made to cause you to cease working at Aware Woman Clinic?

MR. WEISS: Your Honor, I'm going to object back to the earlier question. We need to establish within your jurisdiction. We're talking about all the major abortuaries in the Central Florida area, which include abortuaries other than those outside the confines of Seminole County and Brevard County. If he wants to talk about what happened under your jurisdiction, that's appropriate.

THE COURT: You're going to have to limit it.

MS. PATRICK: We'll limit it to that, Your Honor, I don't have any difficulty with that.

THE WITNESS: I thought we had limited it to that.

MS. PATRICK: Right. We're talking about Aware Woman.

THE WITNESS: Aware Woman.

MS. PATRICK: Aware Woman, right.

[p. 82] Q How many attempts has Bruce Cadle made to cause you to cease performing services at Aware Woman?

A A minimum of two if not more than that.

Q What have been the effects on you personally of the actions taken by Defendant Cadle, Defendant Martin, and Mr. Raney?

THE COURT: Counsel, I'm going to have to ask you to break –

MS. PATRICK: Break down.

THE COURT: – break it down. Ask individual questions as to each individual person.

Q What have been the effects of the efforts made by Mr. Cadle on you personally to cause you to cease working at Aware Woman?

A Anxiety, fear, concern.

Q What about Mr. Martin?

A Same.

Q What about Mr. Raney?

A Probably the worst of all, I mean –

Q How so?

A He has been the most aggressive of anybody. Mr. Cadle has been very vocal as has Mr. Martin. But, they have not tried to personally assault me. Mr. Unterberger and Mr. Raney are the two really vicious ones.

Q Dr. Snydle, tell us why you quit working at the [p. 83] Aware Woman Clinic?

A Because of the murder of Dr. Gunn (phonetic).

Q Were you afraid something might happen to you at the Aware Woman Clinic as a consequence of the actions of Defendant Cadle?

A Yes, ma'am. Absolutely.

Q Were you afraid that something might happen to you at the Aware Woman Clinic as a consequence of the actions of Defendant – of Meredith Raney?

MR. WEISS: Your Honor, I would like to interpose an objection with respect to anything dealing with Dr. Gunn's very unfortunate murder in Pensacola. Your Honor, that occurred a week ago. He's talking about an incident that occurred, he said, in October of 1992. And the incident involving Dr. Gunn was less than a week ago.

So, how can he be afraid of dying like Dr. Gunn at an event that occurred in October. I move to strike it.

MS. PATRICK: Your Honor, the witness is – I've asked working. He said it was the day after Dr. Gunn died. I am now asking him whether the tactics about which he has testified cause for him to fear for his safety at the Aware Woman Clinic and thus not go there to work any more.

That's clearly pertinent to the proceedings here today.

[p. 84] THE COURT: Yeah. It's the continum [sic] of the activity that he's testifying about and I believe it's, you know, you may continue.

MR. WEISS: Just so the record reflect it, I do want to interpose an objection for the record. There is no showing whatsoever that the actions of this murder in Pensacola are in anyway associated with that of Ed Martin, Judy Madsen, Shirley Hobbs, Rescue America, Bruce Cadle, Meredith Raney, Operation Rescue.

I want the record to reflect that there's been no nexus shown.

MS. PATRICK: If counsel wants to testify about Dr. Gunn's murder, he can testify about it. But, that's not a proper objection, Your Honor, And, I'd ask counsel be instructed to lodge objections to the evidence in accordance to the rules.

THE COURT: Well, he's testified it was a triggering event after a series of other confrontations, but, you know, the court's received no testimony that the homicide in Pensacola is related to anyone here. You may proceed.

Q Did the actions of Meredith Raney that you testified about cause you to fear for your safety at the Aware Woman Clinic?

A Yes, ma'am.

Q Did they cause you to cease to work at the Aware [p. 85] Woman's Clinic?

A That's one of the factors certainly.

Q What about the actions of the Defendant Bruce Cadle?

A The same.

Q What the actions of Operation Rescue?

A The same.

MR. WEISS: Your Honor, I'm going to have to interpose again. Operation Rescue, again, we've got that generic label Operation Rescue. If that any [sic] way implies activities to these named defendants I represent, I would request a specific question.

MS. PATRICK: Your Honor, I've said it more times than I can count. We are not seeking at this juncture to tie his clients to Operation Rescue. If counsel wants to represent Operation Rescue, that's a different matter. But, as of right now, that distinction has been clear, I think, throughout the examination of this witness.

MR. WEISS: It hasn't been clear to me.

THE COURT: Both of you are agreed.

MR. WEISS: Well, if she's stipulating that my clients are not subject to any of the actions here seeking sanctions, I'd just as soon pack up and leave.

MS. PATRICK: Your Honor, with all due respects to counsel –

THE COURT: He's testified that Mr. Martin has [p. 86] blocked the driveway in Melbourne. You may proceed.

Q Did the actions of Mr. Martin cause you to fear for your safety at the Aware Woman Clinic?

A Yes, ma'am.

Q Would you still like to work at the Aware Woman Clinic, Doctor?

A Yes, ma'am.

Q Why don't you work there today?

A Because of fear, of concern of the same thing that happened in Pensacola.

Q All right.

A Because it has been escalating. The severity has seemingly escalated over the last year at least. The confrontations, the kinds of pseudo violence and anticipated violence.

MS. PATRICK: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WEISS:

Q Referring you now to Plaintiffs' Exhibit One, would you please point out to the court any statement in Plaintiffs' Exhibit One that you maintain to be an untrue statement?

A That I'm a known child killer.

Q In performing abortions is a human life ended?

MS. PATRICK: Objection, Your Honor, relevance.

[p. 87] MR. WEISS: Your Honor, it goes to the truth of the matter here.

MS. PATRICK: Your Honor, the point of the offer of the exhibit and so on is not the truth. I specifically said when I offered the exhibit we were not offering it for truth. What these people do for a living, the services they provide is not at issue here.

The issue is whether they are entitled to the protection of this court's order. Counsel is not here entitled to debate the merits of what Dr. Snydle does in the exercise of his medical judgment with regard to treatment of his patients. That is not relevant.

THE COURT: Sustained.

Q Mr. Snydle, would you point out any other –

MS. PATRICK: Excuse me, Your Honor, could we please address the doctor as Dr. Snydle.

MR. WEISS: Since when has it become so rarified that you are under court order to call this gentleman doctor? I mean, if you rule I have to call him doctor, I'll call him Ray, I'll call him whatever you say, Judge.

THE COURT: He can refer to him however he wishes. I'm not going to order him to.

Q Now, you said Ed Martin in October of 1992 blocked your entrance to the Aware Woman Clinic.

A Somewhere around that time.

[p. 88] Q Some –

A After the injunction, definitely.

Q Okay. So, you saw this man – there is no possibility he was in the State of Washington, Alaska or –

A I don't know where he was.

Q I thought you said you knew he was at the Aware Clinic.

A He was. I don't know where else he was, but he was there.

Q That's in October of 1992?

A Yes, sir.

Q Tell me how it is you remember that date, sir?

A Because it was after the injunction, shortly after the injunction, within several weeks of that.

Q Okay.

A So, I'm assuming it may have been early November. I don't know. But, it was sometime in that time frame.

Q Now, when ladies go in and they're pregnant and they're going to have an abortion, I believe your testimony was that some of them are distraught or nervous or –

A Yes. That's correct.

Q Now, most folks who come in to have their baby killed, do they seem upset or huffy?

MS. PATRICK: Objection, argumentative, Your Honor. Again, we're not here debating the merits of the what the [p. 89] Aware Woman Clinic provides. Counsel is not entitled to debate this issue with this witness.

MR. WEISS: Your Honor –

MS. PATRICK: This is a constitutional right. He may characterize it as baby killing. Dr. Snydle and my

clients believe it is legitimate medical care licensed by the State of Florida. That's an argumentative question.

THE COURT: It is argumentative.

MR. WEISS: Your Honor, it goes to causation. He's saying the ladies that come in there seeking to have an abortion, that some of them are nervous. What I want to ask him about is other alternative causes that may make them nervous, such as concern about the procedure, what they might be doing to themselves and their child.

THE COURT: Okay. To the extent that you used buzz words associated with your movement, those are emotional and they are argumentative. And, I'll ask you not to use them.

Q Okay. When the abortion service is provided, are all your patients who come in cool, calm, and collected at the time the procedure is to take place?

A No, sir.

Q Okay. And, you are positive of your own personal knowledge that those that came in that were not cool, calm, and collected about the abortion procedure were doing so [p. 90] exclusively as a result of the activities of these defendants? Is that correct?

A Not all individuals who are upset are upset because of the picketers. But, many of them mention that picketers as a reason for them being upset.

Q And, you do recognize that this court's order authorizes and permits First Amendment activity outside

those abortion clinics; do you not sir? They have the right to be out there?

A Yes, they do.

Q Okay. And, when the women see folks outside protesting what they're doing wrong, it elevates their heart rate, causing them to breath harder; correct?

A I really think it's the level of activity outside. If people are there peacefully protesting with pickets or signs, it probably does not cause nearly the emotional stress and distress for the patients as when they are being yelled at and screamed at that they are murderers and they are killing their child, et cetera, et cetera.

Q Okay. Now, with respect to, you said you had a specific patient in mind that you recall having no record of hypertension. Would you please tell me who this patient was so I can identify from the medical records if this person had a prior history of hypertension?

MS. PATRICK: Your Honor, we object. The patient [p. 91] in question has a right to privacy and her own decision and privacy of her identity. She is not a party to this proceeding.

The doctor has testified to his observations. This witness is – This proceeding is not designed to waive the medical privacy and the medical privilege, and confidentiality. That is the issue.

The issue is what did this doctor observe.

MR. WEISS: Your Honor, I believe they opened the door. He said no prior history of hypertension. I think

I've got a right to look at those medical records to investigate fully whether or not this heavy breathing that he said is in any way associated with the activities of my client or the normal tension associated with the procedure or some other pre-existing condition. He's opened it up.

He made reference to a specific patient on a specific day having hypertenion [sic] as a result of what my client did. I think I'm entitled to explore that.

THE WITNESS: Your Honor, may I address the court, please.

MS. PATRICK: No. Your Honor, with regard –

THE COURT: You can, Doctor, if that patient authorized you to speak.

THE WITNESS: No, sir. I just wanted to try to [p. 92] clarify something.

THE COURT: All right. Well, counsel, it's – Ordinarily you would have that right in cross-examination. But, the court recognizes there is also a conflicting right of privacy. And, it's a matter of balancing those respective rights.

And, I believe that in like situations the appellate courts have told us the right of privacy is paramount.

MR. WEISS: Your Honor, I can furnish with a case in the State of Florida dealing with the proposition that a doctor can get on the stand and try to charge my client with sanctions as a result of some heinous activity allegedly taken outside these clinics that's causing disability to a particular patient and that I'm not able to

inquire into who the patient was, what their condition was, what might have caused that condition.

And, I would move at this time to strike that testimony as being inadmissible because it's totally inappropriate to open the door and disclose all this health information with respect to a particular patient, utilize that specific information on a particular patient. Open the door wide enough to say a person has a terrible problem as a result of my client and not permit me to have the opportunity to cross-examine.

If they wanted to preserve that privilege, I think [p. 93] they have done a very poor job of doing that. I do think its wholly inappropriate and would move to strike that testimony. I should be entitled to cross-examine. We're talking specific individual on specific days.

THE COURT: Lee, see what you can find on it, please, balancing the right of privacy against the right of disclosure where it [sic] used as a example in the testimony of a witness.

MR. WEISS: While that's going on, I'll proceed, Your Honor.

MS. PATRICK: Your, Honor, the only thing I would call to the court's attention in that regard has been the case of In Re: T W, a Supreme Court of Florida –

THE COURT: Lee, they have a citation here that they're relying on.

MS. PATRICK: It is not directly pertinent to cross-examination. But, in In Re T W, Your Honor, the Florida Supreme Court recognized that the right of privacy adopted by the voters of this state as a constitutional

limit to the constitution was paramount. So much so, that the parental consent law was invalidated. That is a woman's right to treatment and obtain treatment at an abortion facility, even if she were a minor child, was paramount so that her identity could be concealed.

So, I think that that privacy amendment is a direct [p. 94] constitutional right of these parties. It is not – It does not go to the heart of the issue. It goes to the overall climate that has been created by the conduct of contempt.

And, at that point, Your Honor, we think the balancing of a clear constitutional right as against marginal relevance – marginal cross-examination at best.

THE COURT: It's a good cross-examination. In criminal cases, there would be no question about it.

MS. PATRICK: Well, I think, Your Honor –

MR. WEISS: I think this quasi criminal in nature. They want these folks to go to jail.

MS. PATRICK: Your Honor –

MR. WEISS: This is as close as you can come to criminal contempt.

THE COURT: Counsel, I've asked my law clerk to see if she can find some authority on it. Let's go ahead at this moment.

MR. D'ALEMBERTE: If I could cite one case, Your Honor, N. A. A. C. P. versus Alabama which balances these rights of privacy in context of the N. A. A. C. P.'s right –

THE COURT: Do you have the citation?

MR. D'ALEMBERTE: I'll dig it out.

MS. PATRICK: There is an additional case, Your [p. 95] Honor, that's a United States Supreme Court case. And, there is an additional case, The Black Panther Party versus Gray, I think. It was whoever the F.B.I. director was at the time. In the context of a civil case where information was sought for purposes of cross-examination, the court said no their right to associational privacy, which is also a direct constitutional right, had pre-eminence over the desire to obtain evidence for purposes of cross-examination.

THE COURT: I would like to see the authorities as to the right of medical privacy and see the one that dominates. But, go ahead.

Q Doctor, tell me the officers, you said you were familiar with the officers of the defendants in this case. Tell me who the officers in Operation Rescue are, if you know.

A I know Randall Terry –

Q Say that name again, please.

A Randall Terry is associated with Operation Rescue.

Q Okay. How do you Randall Terry is associated with Operation Rescue?

A Because he tells everybody he's associated with it.

Q Okay. Tell me who the officers are in Operation – First, are you familiar with whether or not an organization even exists known as Operation Rescue America?

A No, I don't.

[p. 96] Q Okay. The defendant in this cause, Operation Rescue America, you don't even know if such an organization exists?

A No, I don't.

Q So, if you don't know if it exist, you sure don't know who are its officers; right?

A That's correct.

Q You performed –

THE COURT: Do you represent Randall Terry?

MR. WEISS: No, Your Honor. These fine folks sitting right here.

THE COURT: Is Mr. Terry present?

MR. WEISS: No, Your Honor.

(Whereupon, a brief recess was had, after which the following proceedings were had:)

THE COURT: Okay.

MR. WEISS: Let me say, in South Florida Blood Services, Incorporated versus Rasmussen, 467 Southern Second 798. I realize they do no want disclosure outside this litigation. It's my desire there be disclosure within this litigation. I recognize –

THE COURT: Well –

MR. WEISS: – it's tough.

THE COURT: It's, as the court says here, it's a matter of balancing the conflicting rights. And, of course, it seems to me that with Roe versus Wade, is [p. 97] based on the right of privacy. And, of course, Florida has a constitutional right of privacy amendment. And, it's just – The court here says the more relevant and necessary the desired information is to the resolution of a case, the greater the state's interest in allowing discovery in this incident – instance, I should say.

And, I don't think that the name of a particular patient of the doctor is truly necessary for resolution of this dispute.

MR. WEISS: Just so I maybe heard for preservation of the record, there is a case pending in the circuit court. It's currently now up on appeal in the Fifth Circuit in which Judge Richard B. Burk, B-u-r-k, Circuit Judge, circuit court case in the Fifteenth Judicial Circuit for Palm Beach County, Florida and South Palm Beach County, a chapter of the National Organization for Women, case number 89-43336-AO versus Randall Terry and a whole slew of other defendants.

Judge Burk in that decision was confronted with this identical decision, with an [sic] published circuit court opinion in which he required, felt the balance tilted the other way.

I know that's certainly not binding on the court. That's the quickest authority I could find.

In the interim, with respect to this balancing test, [p. 98] I just, for the record, I do think to the extent that

they opened up a particular patient's condition and tried to draw from that condition actions attributable to my clients for which they seek criminal sanctions. This is quasi-criminal in nature. I do think we are dealing with a looser standard.

They certainly opened the door.

THE COURT: Counsel, I'm aware of, you know, the fact that when an individual becomes identified by name, she then becomes subject to mail of all sorts. And, I think that right not to be assailed with letters of all sorts, you know, is something to be protected.

MR. WEISS: Judge, I couldn't agree with you more. Perhaps that information could be disseminated in chambers subject to a protective order just between counsel, certainly not here in the presence of the press. So, I can explore whether or not it was any other related cause associated with this person's alleged hypertension.

And, I would certainly would be able to do it under a very strict protective order. I wouldn't even show it to my clients. I just want to find out what truly was the cause of this woman's alleged hypertension.

THE COURT: Well, it's offered as one of the reasons for inforcement [sic] of the court's injunction. It's one of many examples. And, I don't believe again determinative [p. 99] of the outcome of a particular action.

For that reason, I'll sustain the objection.

MR. WEISS: Thank you, Your Honor.

BY MR. WEISS:

Q Now, with respect to the activities of Judy Martin, you recognize Ms. Martin?

A Yes, sir.

Q Have you ever seen her in Seminole or Brevard County in front of the Aware Clinic blocking access?

A Not to my knowledge.

Q And, it's your testimony that Ed Martin, you personally saw him where, sir?

A In front of the Aware Women Clinic.

Q And, what was the day that that occurred?

A I can't give you an exact date. I know it was after the injunction.

Q And, what did Mr. Martin do?

A He was walking back and forth across the parking lot entrance. And, as I tried to get in with my car, everybody just sort of stood there. I blew my horn several times and then progressed.

Q So, you did blow your horn and they did move. That's a big Cadillac you drive; isn't it?

A Yes, it is.

Q Okay. And, when you blew your horn and said I'm [p. 100] coming through, you came through; didn't you?

A It took several times, yes, but I did go through.

Q So, in fact –

A In one of those instances, a police officer had to tell them to move aside.

Q And, at all times they obeyed the order of the officer and nobody physically restricted permanently your access into the clinic. You got through; didn't you, sir?

A That's correct.

Q Okay. Now, of your own personal knowledge here as a physician, tell me exactly how you know that the cause of hypertension in this unnamed patient is directly attributable to the actions of these defendants and no other cause?

A Well, for one thing, when the individual said, you know, I am so hyper because of those people outside yelling and screaming. That's one indication.

And, if they've never had any other hypertensive episodes medically documented and this one particular day they have hypertensive, to me that indicates some, at least, relationship.

Q And, this was attributable to the fact people were walking around picketing outside?

A No, not just picketing.

MS. PATRICK: Excuse me, Your Honor, could the witness – I don't think the witness had finished [p. 101] explaining why he drew that causal relationship when the counsel interrupted him. If I'm mistaken, I apologize. But, I don't think he had finished.

THE COURT: I sensed that it was.

MS. PATRICK: Okay.

THE COURT: Doctor, do you have any other basis for causally relating it?

THE WITNESS: No, sir.

Q Now, the actions that you attributed to be causally related are those of persons marching outside the premises, picketing, holding signs saying "Abortion is murder," things of similar import; correct? Saying there is killing going on inside.

A No. That's what I'm trying to tell you. It doesn't seem to be nearly as bad – Can I use the Orlando example –

Q No. No. Only talk about Seminole Brevard.

A Well, I want to tell you the differences.

Q That's not my question. I'm talking about what happened in the jurisdiction of this court that you are seeking sanctions against my clients.

A Let's just say that the women in Melbourne are much more anxious when I am there, when there's a lot of picketers yelling and screaming than when there are very few picketers or no picketers.

Q Isn't it a fact, sir, that it was the murder of Dr. [p. 102] Gunn that caused you to stop performing abortions in Brevard and Seminole County? You didn't want to get shot; right?

A That's correct.

Q And, you know of no nexus whatsoever between Judy Martin – Ed – I mean Judy Madsen, Ed Martin, my

clients, to the actions of Mr. Griffin (phonetic), the alleged murderer of Dr. Gunn.

A I don't know of any relationship, no.

Q But, since Dr. Gunn's murder you have performed abortions here in Orange County; haven't you?

A Yes.

Q Now, let's talk about this incident at the Comfort Inn.

A Yes.

Q Was Ed Martin there?

A I don't know. He may have been.

Q You didn't see him?

A I didn't see him that I remember.

Q And, you don't remember Judy – Martin – I mean Judy Madsen being there?

A They're the same. It doesn't matter.

Q They're the same to you?

A Yeah. They're all one organization.

Q They're all the same to you?

A Yes. All one organization.

[p. 103] Q And, you base that on your feeling that it's one united organization trying to stop abortions in America; right?

A That is correct.

Q Okay. And, the exercise of their free speech rights is what offends you; isn't it?

A No, it isn't. I would be the first one to defend their First Amendment right of free speech. It's when they antagonize and harass and intimidate and cause severe harm to innocent individuals that I object.

Q Now, with respect to the incident at the Comfort Inn, what was the date that incident took place?

A I don't recall the date. It was approximately a month ago.

Q All right.

A It may have been a week or two more or less.

Q And, you are saying that the thing that offended you was Bruce Cadle's son sticking a V.C.R. camera in front of your nose; right?

A No. That was one of the things. But, also confronting me, telling lies that I don't have malpractice insurance, that I injured his girlfriend, that I did an abortion on her and injured her. Well, I mean if this is a prolife movement, how in the world did this girl have and abortion by me? And, how was she injured by me?

[p. 104] Q And, these words were stated to you by who?

A By Bruce Cadle's son.

Q He said you performed an abortion on his girlfriend?

A That's correct.

Q And, you thought –

A Or a friend of mine. I don't remember exactly if he said girlfriend or a friend of mine, but it was some, you know, acquaintance, or friend of his.

Q And, he stated that you botched the job?

A Basically, yes.

Q But, you didn't botch the job?

A I didn't even know if I performed an abortion on her. I would doubt it seriously. They're part of the prolife movement.

Q Now, when the manager came out and said you must leave, the folks left; right?

A After he told them three or four times and had to actually guide one of the individuals outside. They didn't all go or if they did go, more came in because that was the first incident of the morning.

Q Now, was anyone arrested for trespass at the Comfort Inn?

A I don't know.

Q Was Mr. Martin arrested for allegedly blocking the access to the Aware Woman Clinic sometime after September, [p. 105] 1992?

MS. PATRICK: Objection, Your Honor. Whether they were or were not arrested for violations of criminal law has no relevance at all to whether they violated this court's civil injunction.

MR. WEISS: Your Honor, the basis for the injunction is the alleged inability of the police to accomplish and protect these abortionists in their endeavors. And, they're coming to you saying, we've got to have your help.

I want some demonstration, I think it's incumbent on them to demonstrate that somehow the criminal penalties were inadequate before we engage in judicial activism and say they need some help. I would think it's incumbent on them to demonstrate an inability to handle it with the criminal statutes we've got, with the trespass statutes.

MS. PATRICK: Your Honor, with all due respect, that has been demonstrated. There is a permanent injunction in place. We're seeking to enforce that order. The Plaintiffs have met that burder [sic] of proof. That is not the issue.

The issue is is [sic] the availability of the criminal law, because the police didn't happen to be there and didn't happen to arrest these people, is that ipso facto make the violation, the knowing violations of your [p. 106] orders, an irrelevant act that Your Honor cannot enforce? That's simply not relevant.

THE COURT: Sustained.

Q Now, that Sentinel Newspaper article, it says "Prolife activitists [sic] to converge on Brevard." Did you read that – I'm sorry. I apologize to the Sentinel. It was Florida Today, December 24, 1992. Did you read that article?

A Yes, I did. It was mailed along with Meredith's little letter.

Q Okay. And, did reading that newspaper article scare you?

A Yes.

Q Okay. But, even though this was on Christmas Eve, December 24, 1992, you went on performing abortions at the Aware Woman Clinic in January; didn't you?

A Yes.

Q And, you went on performing abortions in February; didn't you?

A Yes.

Q And, you went on performing abortions in March; correct?

A Perhaps, yes.

THE COURT: That's this month we're talking about.

MR. WEISS: Yes, Your Honor.

Q Well, once Dr. Gunn was shot, you said I'm out here.

[p. 107] A I am not sure about whether I did in March or not. I don't believe I did in March.

Q I believe it was your testimony on cross-examination that shortly after Dr. Gunn was shot that you ceased performing abortions.

A That's correct. But, I don't think I was scheduled in the first part of March, I know I was scheduled two days after he was shot.

Q The incident involving the pickup truck, what was the date of that incident?

A I really don't recall.

Q So, you don't know whether it was before or after this –

A All of these things that I'm talking about were after the injunction. I can tell you how I remember that. Because when the injunction was enjoined, if that's the correct terminology, it was in the newspaper and the newspaper articles were put up at the clinic. And, I remember thinking, you know, sort of post and ante or anti the articles being placed on the windows of the clinic.

Q All right. Let's talk about –

A So, I don't know the exact day of things. I can remember if it was after or before.

Q Let's talk about the dueling cars.

A Yes.

[p. 108] Q Mr. Windle is in here?

A That's correct.

Q And, where is he?

A Sitting over there.

Q That's Mr. Windle?

A Yes.

Q That guy in the blue shirt sitting in the front row?

A Correct.

Q And, to use your words, what he was doing was he was dueling with Mr. Raney. Trying to shove Mr. Raney's car off the road?

A No. He was trying to block Mr. Raney's truck from getting up to my car because he had seen Mr. Raney park in the bushes and thought he was going to try to follow me. So, he suggested that I go the back way.

Even though I did go the back way, Mr. Raney still saw me and tried to follow me.

Q Okay. But, this dueling cars, Mr. Windle was trying to block Mr. Raney from traveling down the roads of the State of Florida; right?

A Yes.

Q Okay. And, did you ever report this incident, this alleged incident were [sic] allegedly Mr. Raney pointed his finger at you? Did you ever file a report with any police department of the State of Florida?

[p. 109] A No.

Q Okay. So, you didn't and the reason you didn't is you were't [sic] that scared; right?

A I was scared, but, I mean, somebody pointing his finger at you, I didn't know that was illegal. If he had pointed a gun at me, I certainly would have called the police.

Q One last question, do you recall the day of the week that you allegedly saw Ed Martin in front of the Aware Woman's Clinic?

A No, sir, I don't.

MR. WEISS: Nothing further, Your Honor.

THE COURT: Redirect?

MR. CADLE: Your Honor, may I cross-examine?

THE COURT: Sure.

MR. CADLE: For the record, Your Honor, my name is Bruce Cadle, defendant in this proceeding. I'm representing myself today merely because I've not had time to get counsel. I was served this paper Friday night.

And, I'm not privy to the second motion that was filed today.

THE COURT: Well, we're not proceeding on that.

CROSS-EXAMINATION

BY MR. CADLE:

[p. 110] Q Mr. Snydle, the documents that have been discussed today, there was, I believe, a wanted poster, a flier, and distributed a letter with attachments.

Do you have any factual knowledge that I have any involvement in authoring those documents?

A Not in those, no.

THE COURT: Mr. Cadle, I'm sorry. Were your [sic] referring to the exhibits?

MR. CADLE: To the exhibits that have been presented.

Q Do you have any factual knowledge that I have directed or instructed anyone else to prepare those documents?

A No, sir.

Q Okay. And, what was the date, to your knowledge, of this court's order?

A September thirtieth.

Q September 30, 1992?

A Yes.

Q Okay. You have described the attitude, the physical presence of patients that have come in to seek your services. Have any of those patients, and we're not seeking names, have any of those patients ever testified to that because of my personal activities outside of Aware Woman Clinic in Melbourne, that they are suffering any of these signs that you have seen?

[p. 111] A Did they say your name specifically?

Q Yes, sir.

A No.

Q So, no one has pinpointed me and said that I have caused them anxiety, stress, high blood pressure, any of the things that you have mentioned?

A I don't know exactly how to answer that. If you are one of three people out there yelling and screaming and they come in and say those people out there –

Q No one has mentioned me by name –

A No.

Q – at all? Thank you. Or pointed to me in your presence and said that man?

A That's correct.

Q Okay. Thank you. You described an incident at the Comfort Inn –

A Yes.

Q – in Melbourne. And, what was the date of that incident?

A I don't know. It was approximately a month ago.

Q Was it a week day or a weekend?

A It was a week day.

Q A week day. And, you said I was physically present that day?

A You were there present the following morning.

[p. 112] Q At the Comfort Inn?

A You were outside the Comfort Inn, yes.

Q Okay. And, what was I doing? Could you describe that?

A I believe you were holding a sign.

Q Holding a sign?

A Right.

Q Could you describe how far away from the Comfort Inn was I?

A There was a whole gauntlet of people running down the driveway to Wickham Road. The Comfort Inn is back from Wickham Road quite a distance. And, there was a bunch of people lining that driveway.

So, where exactly you were – I think you were at the curve. So, I, you know, I can't estimate how far that was. Perhaps a hundred feet, two hundred feet.

Q A hundred feet, two hundred feet –

A A hundred feet –

Q – from the hotel?

A Right.

Q You never saw me inside?

A No. I did not see you inside the hotel.

Q Did I say anything to you?

A I don't know. I mean everybody was shouting and yelling. So, I assume that you were one of those people –

[p. 113] Q You saw me out on the sidewalk somewhere a hundred, two hundred feet away from the hotel –

A Yes.

Q – holding a sign?

A Right.

Q You mentioned that my wife was there.

A Yes.

Q Could you identify her for the court?

A I saw a picture of her at the clinic. And, I don't recognize her in the crowd here.

Q So, you are basing a picture at the Aware Woman Clinic –

A Yes.

Q – that's stated to be my wife?

A Yes.

Q Have you ever met my wife?

A No, I have not.

Q And, if I told you that she was in bed asleep that day, would you have any problem with that? Why would you have a problem?

A I wouldn't have a problem with that. But, you know, I identified her from a picture. When they got to the clinic they showed me, you know, I identified several people who were confronting me or accosting me.

And, they said, well, look through these pictures. [p. 114] And, identified two people in there. One they said was your son and one they said was your wife.

Q And, what did my wife do on that day?

A She was telling me that I performed an abortion on her and I could not look her in the eye and why

couldn't I look her in the eye and that I'm a criminal and that I'm this and I'm that and I'm a child killer and I can't look her in the eye.

Q How old would you guess my wife to be?

A I have no idea. I would estimate somewhere – I can't estimate.

Q How close was she during this confrontation?

A She was standing to my left leaning over the counter that I was leaning over trying to check out.

Q So, she was a foot away? Two feet away?

A Probably two feet away.

Q How long was this encounter?

A The encounter was approximately three to four minutes.

Q Three or four minutes?

A Right.

Q You have no earthly idea how old she might be.

A I would not like to quess [sic] a woman's age, no.

Q That's probably wise, a wise decision. Did she –

A She was not an old woman.

[p. 115] Q Not an old woman. She'll be pleased to hear that. What color hair did she have?

A Blond.

Q Blond hair. What color eyes? Do you recall?

A I don't.

Q Do you remember what she was wearing?

A No. She was a little bit chubby, I would say, you know, not slim, not heavy.

Q And, what height?

THE COURT: She may not be pleased to hear that.

THE WITNESS: I'm sorry. That's why I used the word chubby, Your Honor.

Q And, what height would she –

A Well, she was leaning over the desk. I would assume she was about five foot five, five foot six. I don't – I can't really tell.

Q Okay. And, did you, at any time, see me direct her or instruct her to come and confront you in this manner?

A No.

Q You had described earlier some actions by someone you believe is my son. How would you identify my son?

A He was very slim. I –

Q How would – excuse me. How would you know who my son is?

A Again, I said that when I got to the clinic, they [p. 116] said to me who were some of these people who were in the lobby. In going through the pictures, I pointed out several people and they named whoever they were.

Q Did you see me, this young man that you believe was my son, did you see me at any time instruct him or give him any direction as far as any actions related to you?

A No.

Q So, I was a hundred or two hundred feet outside the hotel. But, people you believe, because of pictures shown to you at Aware Woman Clinic to be my wife and my son, you believe confronted you?

A Correct.

Q But, I was not involved in that?

A I did not see you there, no.

Q Did you see me distributing leaflets, the leaflets that were described earlier?

A No.

Q You described earlier that, I believe you said, that I have personally blocked your vehicle at Aware Woman Clinic once or twice since this injunciton?

A Yes.

Q The court order was issued? What vehicle were you driving at those times?

A Probably the Cadillac. I usually drive either that or the Subaru.

[p. 117] Q Is this a full sized Cadillac?

A Yes.

Q What speed would you be approaching Aware Woman?

A Quite slowly. I don't know, like turning the corner, I don't know, ten miles an hour. And, then as I try to get into the parking lot, there are usually people walking in front, so I have to stop.

Q Could you describe for the court this – You've described a parking lot. Is there a sidewalk in front of Aware Woman?

A Yes, there is.

Q Is that a public sidewalk to your knowledge?

A Yes. I would assume so.

Q Is that where people frequently picket by walking on the sidewalk?

A That's correct.

Q And, is this sidewalk separate from the driveway or parking lot area?

A What do you mean separate?

Q Is it connected to a driveway?

A It's all one continuous.

Q All one continuous.

A Right.

Q So, people walking in the driveway area would have also possibly been walking on the sidewalk?

[p. 118] A Yes.

Q And, would you typically believe with [sic] were you driving across a sidewalk, that you would need to stop for pedestrians?

A Of course.

Q That would be your normal behavior?

A Right.

Q Have you personally seen me stand – You say I've blocked your car before. Could you describe exactly what I did?

A Well, when you stand and you see that a car is coming, normally people try to get out of the way. You don't stand there and then turn and look at someone and just sort of stand there.

Q Could you describe what I've done specifically.

A That.

Q Stand there?

A Yes.

Q And, so exactly what happened? Could you describe for the court, you are driving ten miles and hour –

A No, no, no.

Q – in a full sized Cadillac.

A No, no, no. I'm driving about ten miles an hour as I turn the corner off Highway One on to whatever that road is in front of the clinic. And, as I try to get into the [p. 119] driveway I have to stop. As a matter of fact, I have to slow down significantly because there are people usually on both sides – not usually, but occasionally on both sides of the street.

Q So, there are people on both sides of the street. There's people in the driveway. There's people on the sidewalk –

A Correct.

Q – picketing.

A Correct.

Q And, you've singled me out of the crowd as standing in front of your vehicle? Exactly where was I on the incidences where I block your vehicle? Where was I?

A In front of the vehicle.

Q In front of the vehicle?

A That's correct.

Q And, did you come to a complete stop at that point?

A Yes.

Q And, then what happened?

A Then, eventually people move. I blow my horn. People are yelling at me. And, then I finally get through.

Q And, how long, on the incidence that you're describing, where I was involved, how long did I stand in front of your car?

A Thirty seconds.

[p. 120] Q Thirty seconds. You wouldn't have me confused with anyone else possibly; would you?

A I don't think so. I've seen you enough to know you.

Q So, if other people have told me that you have walked up to them and called them Bruce Cadle, would that surprise you with the emotion of the activity?

A No. There's one other guy, this Ray Unterberger or whatever it is, looks like a younger you, a little bit darker. And, at first I thought that was you about a year ago and I used to call him Bruce. But, then I finally made the distinction. Now, I definitely know who you are.

Q Okay. So, there's someone that you used to confuse for me?

A That's correct.

Q Someone who you've described their activities as being more violent than mine –

A Yes.

Q – in earlier testimony?

A And, vocal.

Q And, more vocal. How did you describe my activity towards you? My actions?

A Primarily vocal.

Q Primarily vocal. You said that the effects of this is anxiety, fear, concern for your life, pseudo violence, and anticipated violence.

[p. 121] A Correct.

Q Could you describe for the court what I've said that has caused that response?

A "We don't want you here in Melbourne. You're a murderer. You're a child killer. You're going to burn in hell."

Q Have you reported that? You believe that I've said those things?

A I know you've said them.

Q And, have you gone in and recorded that information, written it down, or how are you able to recollect that?

A I mean, you can recollect when people call you a murderer.

Q And, typically is this a crowd situation? You've described people yelling and screaming.

A On occasion it is a crowd situation. On occasion you have been there with maybe two other people.

Q And, that would be since September thirtieth of 1992?

A Yes.

MR. CADLE: Okay. I have no further questions, Your Honor.

THE COURT: Are there any other defendants present not represented by counse [sic] that –

MR. WEISS: I don't know if it's their intention to [p. 122] make Mr. Raney a defendant in this action. If not, I guess you've ruled we're not going to do number two today.

THE COURT: He claimed not to be a representative of any organization –

MR. WEISS: Okay.

THE COURT: – and he's not otherwise named in the complaint.

MR. WEISS: Okay. Nothing further.

THE COURT: Redirect?

MS. PATRICK: Pass the witness, Your Honor.

THE COURT: Pardon me?

MS. PATRICK: Pass the witness. No further – no redirect.

THE COURT: All right. May this witness be excused?

MS. PATRICK: He may be by our side, Your Honor.

MR. WEISS: Certainly.

THE COURT: Thank you, Doctor. We're releasing you from further attendance. You do remain under the rule of sequestration that says you will not discuss with others your testimony that you've given here.

* * *

[p. 123] CERTIFICATE OF REPORTER

STATE OF FLORIDA :
: ss:
COUNTY OF ORANGE :

I, Margie L. Breit, Notary Public for the State of Florida at Large, do hereby certify that the foregoing proceedings were reduced to shorthand in the presence of

the within-named parties and later transcribed; that the foregoing is a true and correct transcription of the excerpt of the proceedings as aforesaid.

I do further certify that this hearing was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, counsel, or attorney for either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on March 27, 1993 in Orlando, Florida.

/s/ Margie L. Breit
MARGIE L. BREIT

My Commission Expires:
October 7, 1994
Commission No: CC053127

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR SEMINOLE COUNTY, FLORIDA

WOMEN'S HEALTH CENTER, INC., AWARE WOMAN CENTER FOR CHOICE, INC., EPOC CLINIC, INC., AND CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, INC.,	CASE NO. 91-2811-CA
Petitioners,	
vs.	
OPERATION RESCUE, OPERATION RESCUE AMERICA, OPERATION GOLIATH, ED MARTIN, BRUCE CADLE, PAT MAHONEY, RANDALL TERRY, JUDY MADSEN, AND SHIRLEY HOBBS,	
Respondents.	

BEFORE THE HONORABLE

ROBERT B. MCGREGOR

JUDGE OF THE COURT

A hearing in the above style cause was held at 1:30 o'clock p. m., on Monday, the 22nd day of March, 1993, in the Courtroom of the Seminole County Courthouse, Sanford, Florida, before Margie L. Breit, Notary Public for the State of Florida at Large.

APPEARANCES:

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PLAINTIFFS' EXHIBIT NUMBER THREE 132

[p. 126] WHEREUPON:

The following proceedings were had:

THE COURT: All right. Call your next witness.

MR. D'ALEMBERTE: Excuse me, Your Honor, Captain Gary Allgeyer of the Melbourne Police.

WHEREUPON:

GARY A. ALLGEYER

a witness herein, having first been duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. D'ALEMBERTE:

Q Okay. Captain Allgeyer, if you'll give us your name, address, and occupation, sir.

A Okay. My name is Gary A. Allgeyer. My address is 650 North Apollo Boulevard in Melbourne, Florida.

MR. D'ALEMBERTE: Your Honor, if court and counsel would permit it, I'll lead Captain Allgeyer through his history, if there is no objection.

THE COURT: If it's preliminary sure. Captain Allgeyer, if you would spell Allgeyer.

THE WITNESS: A-l-l-g-e-y-e-r.

THE COURT: G-u-y –

THE WITNESS: E-y-e-r.

[p. 127] THE COURT: E-y-e-r.

MR. D'ALEMBERTE: Your Honor, I may have put a witness list is one of the documents I put up there. It maybe helpful to you.

Q Captain Allgeyer, I understand that you are a graduate of Florida State University in criminology?

A Yes, sir.

Q You have a master's also in criminal justice from Rollins College?

A Yes, sir.

Q And, that undergraduate degree was in 1974 and masters in 1978?

A That's correct.

Q Since that time you've been on the Melbourne Police Department –

A Yes, sir.

Q – for some years. Serving first as a patrolman from seventy-four to seventy-six. After two years you were promoted to sergeant. You worked with the records training program during that time. Several years later you were promoted to lieutenant with the patrol division where you were a watch commander during that time; is that correct?

A Yes, sir.

Q And, in 1980, you took charge of the training program and internal affairs?

[p. 128] A Right.

Q And, became a captain in 1988 and in charge of the patrol division and later support services. And, in 1991 came back to the patrol division; is that correct?

A Yes.

Q And, you now are second in charge of the Melbourne Police Department?

A That is correct.

Q So, there are three captains in the Melbourne Police Department and you are the senior and the person who would be in charge if the chief of police were out of town or away?

A Yes.

Q Is that correct? Now during the time that there have been demonstrations at the Aware Woman Clinic, have you had any contact with those demonstrations?

A Yes, sir.

Q Going back to what year, sir?

A Back to 1989 where we had a large demonstration.

MR. WEISS: Your Honor, I'm going to interpose an objection. What happened in 1989 is absolutely irrelevant to the proceedings here. If we could go from the date of the order forward, that's fine. What happened three years prior to the order –

MR. D'ALEMBERTE: Counsel, I'd be delighted to skip over this. I frankly wanted to show his long term

[p. 129] contact with demonstrations to demonstrate his expertise.

If you will accept him as a guy to give an expert opinion, I'll be happy to skip over all that.

MR. WEISS: Your Honor, I can stipulate he's a policeman. But, what happened in 1989 and between forces unknown is irrelevant to the sanctions sought by your order.

THE COURT: But, he's qualifying him to give expert opinion based on experience. I don't know what his expert question is, but that's what I understand the inquiry to be.

MR. D'ALEMBERTE: That's correct, your Honor. And, the area I would like to qualify the captain, Your Honor, is in the area of police procedures in trying to have orderly demonstrations which are not threatening to the public safety.

THE COURT: Yeah.

MR. D'ALEMBERTE: That's the basis.

THE COURT: As a basis for qualification you may inquire.

MR. D'ALEMBERTE: That was my purpose.

THE COURT: It need not be evidentiary.

MR. D'ALEMBERTE: Again, with counsel's permission, I'll lead through this. If I'm going into territory he doesn't want me to, I'm sure he'll object.

[p. 130] THE COURT: You can depend on it.

Q You have been then – You have been involved with demonstrations at the Aware Woman Center since 1988; is that correct?

A Yes, sir. Everyone that they've had.

Q Okay. And, during that period of time, have there been a considerable number of demonstrations?

A Not considerable between 1988 and it would have been January eighteenth of this year. There was approximately two situations where in 1989 we arrested a hundred and forty-two people. And, in 1991 we arrested thirty people.

Q All right, sir. Have you been involved in other demonstrations or public events, crowd control activities and so forth in the City of Melbourne during your tenure?

A Several.

Q And, the Melbourne Police Department, are you the person who is turned to to take care of these kinds of procedures in your job?

A Yes, sir.

Q Now, have you studied crowd control and civil disobedience demonstrations?

A Yes, I have.

Q And, have those studies been made both at university context and special training schools?

A Yes, sir.

[p. 131] MR. D'ALEMBERTE: Your Honor, I would tender Captain Allgeyer for the purposes indicated earlier as an expert witness.

THE COURT: Do you wish to voir dire?

MR. WEISS: No, Your Honor.

THE COURT: Do you have any objections?

MR. WEISS: No, Your Honor, if he's – what we're saying is this guy knows how to handle crowds. He's an expert in handling crowds.

MR. D'ALEMBERTE: Demonstrations, that's right.

MR. WEISS: I mean, it sounds like he knows what he's talking about when it comes to handling crowds.

THE COURT: You may inquire of him in his area of expertise.

MR. D'ALEMBERTE: Thank you, Your Honor. And, I'll come back to those expert opinions in a moment.

Counsel has indicated he has no objection to our using Plaintiffs' Exhibit A, the sketch which is before Your Honor, and as a backup, counsel –

MR. WEISS: No objection to this.

MR. D'ALEMBERTE: May we enter this into evidence?

MR. WEISS: No objection to this. It appears to reflect the premises.

MR. D'ALEMBERTE: Your Honor, I will represent to counsel and Captain Allgeyer, I think will [sic] agree that [p. 132] Plaintiffs' Exhibit B is actually a sketch taken from Captain Allgeyer's file, a sketch of the premises. It gives the actual distances and so forth and might

be helpful to the court at some point, Your Honor. It would backup this sketch which is just rough and we can use –

THE COURT: If you'll get the witness to adopt it as resembling the area.

MR. D'ALEMBERTE: Yes, sir.

Q Captain Allgeyer, counsel has stipulated to the introduction of Plaintiffs' Exhibit B for identification, which is the sketch taken from your files. Is that –

A Yes.

Q – taken from your files?

A Yes.

Q And, the sketch, Plaintiffs' Exhibit A, can I move that around for you –

A Yeah.

MR. D'ALEMBERTE: Now, may I hand this to the clerk for marking?

THE COURT: Yes, please.

(Whereupon, Plaintiffs' Exhibit Number Three was admitted into evidence.)

Q All right, now. If you would now notice, Captain, just describe to us the layout of the Woman's Aware Clinic in Melbourne, Florida.

[p. 133] A Okay. This is U.S. Highway One. This would be in a northbound direction, southbound direction. The Aware Woman Center is located on Dixie Way. I believe the address is 1615, if I'm not mistaken.

The clinic has the building, parking lot and then a small parking lot on its property with the property line about half way between this driveway where it's located. The rest of that property between the lot line and the roadway would be considered public right-of-way.

The area to the west of the clinic is residential. And, to the east would be Highway One. So, it's a fairly quiet area and not a whole lot of room between the clinic and Dixie Way which is a residential street.

Q Captain, there are two areas indicating parking. Do you know what those parking facilities are used for?

A Yes, sir. This parking area is utilized by the employees of the clinic.

Q That's the smaller one, for the purposes of the record, it's the smaller area?

A That's correct. The larger parking lot is utilized by the clients of the clinic, where they park when they arrive at the clinic.

Q Okay. Now, are they so designated or it just happens that the employees get there first and fill up the small lot?

[p. 134] A That's basically it, yes, sir.

Q Now, Captain Allgeyer, you've indicated there was some demonstrations going back as early as 1988. But, I'm trying to bring your attention to demonstrations taking place since September thirtieth of 1992.

Have you known of some – first of all, any incidents at the clinic during that time?

A September thirtieth?

Q Of 1992, yes, sir.

A We've had a variety of different incidents at the clinic. Basically the ones that we've had was eighty-nine and then in ninety-one.

Q Was there some problem at the clinic in mid-December, 1992?

A Yes, sir.

Q And, what was that?

A We had an incident where someone took butyric acid and pumped that acid underneath the door and utilized Super Glue inside the locks.

Q All right, sir. Now, –

THE COURT: What kind of acid?

THE WITNESS: Butyric acid, it's used by bee-keepers. And, the stuff smells so bad that it keeps the bees away when they clean out the honey out of the hive.

THE COURT: Spell that for me, please.

[p. 135] MS. JOY: B-u-t-y-r-i-c.

THE COURT: Thank you.

Q Captain, I'm not sure you've seen this document, but let me show you Plaintiffs' Exhibit U for identification and ask you if you are familiar with that document? It's at least got the spelling of the acid on it.

A I'm not familiar with this document, but I am familiar with a document similar to this.

Q Okay. And, the document that is similar to this, is that an analysis of the acid?

A Yes, sir. It was passed around to all my police officers in case they came in contact with it.

Q All right, sir. Now, –

THE COURT: Let me ask what the Super Glue does to the locks?

THE WITNESS: Well, they utilize a needle similar to a syringe and place that inside the lock and then squirt Super Glue it the lock. What that does is it fills the lock up and that Super Glue has a fast drying time. And, it enables the person who has the key to operate the lock.

THE COURT: Enable the person?

THE WITNESS: No, makes them where they cannot use them.

THE COURT: Disables them.

[p. 136] THE WITNESS: Disables, that's correct.

Q All right. Now, moving into January of 1993, did I understand you to say that there was some escalation of activity?

A Yes, sir. On January eighteenth, the Operation Goaliath and Operation Rescue started an Impact Training in the City of Melbourne.

Q What is Impact Training? Do you know, Captain?

A Yes, sir. It's a week long – Well, it's twelve weeks. Each week they take a different type of subject and they train on that.

I think presently they plan on ending their training on the ninth day of April, which will make up the twelve weeks.

Q All right. Now, where did you learn about the activities of Operation Goliath and Operation Impact?

A Well, some of it we had discussions with both Mrs. Windle, prior to the impact training. We also had a conversation with Mr. Bruce Cadle prior to the impact training.

A lot of information was gained during those meetings. A lot of information was provided from other agencies to provide us updated information on what possibly maybe taking place.

Q All right.

[p. 137] A We do not have the full extent of what their training covers. But, we have somewhat of an idea.

Q All right. Now, if you've also seen statements by Mr. Cadle?

A Yes, sir.

Q All right. Now, relying only on statements made by Mr. Cadle or other people named as defendants in this case, what is your – what have they told you about what this impact training does?

MR. WEISS: Your Honor, I'm going to interpose an objection. I know I need – we need to speed this up. When we say other people –

THE COURT: Yes.

MR. WEISS: – if it's Ed Martin or Judy Madsen, I'd just appreciate the courtesy of identifying them.

MR. D'ALEMBERTE: I think that's fair. Let's see if we can get some of that out of the way. It might help counsel's exercise program.

Q Have you received any information about impact from Mr. Martin or Ms. Madsen?

A No, sir.

Q Or Shirley Hobbs?

A No, sir.

MR. WEISS: Thank you.

Q And, so you did receive information from Bruce [p. 138] Cadle?

A Yes, sir.

Q Did Bruce Cadle identify what organizations he was involved with when he gave you this information?

A Well, he told us, we know from past experience that he's involved with Operation Goliath. And, also he represented himself as being a member of Operation Rescue.

Q All right. What did he tell you about what the program was going to consist of?

A Well, basically that each week they would have a different suspect – subject taught by a separate individual each week. So, they would bring people in and from the national organization of Operation Rescue to teach a different subject?

Q What subjects were to be covered, if you gained that knowledge from talking to Mr. Cadle?

A One of the subjects he talked about was how to file lawsuits. And, they were going to spend some time at the county courthouse learning how to file lawsuits. Also how to file civil rights violations against police officers was also discussed.

Q And, were there any other topics that were – that he discussed in the impact training?

A Yes. Mr. Cadle told me over that week that or over the twelve weeks, there would be a rescue at the clinic. Mr. [p. 139] Cadle would not tell us when. We tried to talk to him and ask him if he would let us know so we can do it in a fashion that would possibly help each other.

He said, no, only if we would release anybody that's arrested on R. O. R., on their own recognizance. I told Mr. Cadle we do not deal when it comes to making arrests.

THE COURT: I'm sorry. Captain, did he indicate what a rescue operation is?

THE WITNESS: Yes, sir. Mr. Cadle and Mr. Al Monroe (phonetic) who was also there, but is not in the courtroom, stated that their main intention of being up there on any day when there is a surgery day is to buy time as to keep the people that want to visit that clinic away.

And, the more time they can keep them from entering that building or the parking lot to be a client of the clinic, the more babies they can save.

And, a rescue would be a full-fledged entry onto the property and a blockading of the doors.

Q When you collected information on this impact training, did you learn where the impact training was actually taking place?

A Yes, sir.

Q And, where was that?

A It's at the Tabernacle Church on, I believe it's Ferndale Avenue in Melbourne, Florida.

[p. 140] Q And, could you describe that church to us in terms of size and number of parishioners?

A The church is a very large church located at the intersection of Ferndale and Arroya (phonetic) Road. As far as the number of people that attend that church, I have no idea.

Q How far is this from the Aware Woman's Clinic?

A The Aware Woman's Clinic, it's approximately a mile and a half, two miles.

Q All right. Thank you. When you collected this information, did you report to the police chief of Melbourne, Chief Chandler (phonetic) with the information?

A Yes, sir.

Q And, following your report to Chief Chandler was there some memorandum prepared –

A Yes, sir.

Q – about impact training and its consequences for the Melbourne Police Department?

A Yes, sir.

Q And, did you participate in the drafting and preparation of that memorandum?

A Yes, sir, I did.

Q Let me show you Plaintiffs' Exhibit ZZ for identification. It is a two page memorandum with a map and ask you if you can identify that.

[p. 141] A Yes, sir. This is – This is a memorandum that was prepared by myself and the chief. And, it's given to each officer that is assigned to the clinic usually on Saturday to let them know the department's position on how to handle the situation at the clinic.

Q Now, Captain Allgeyer, you received a subpoena today? You are here pursuant to a subpoena and you've produced the documents; is that correct?

A Yes, sir.

Q And, that document, Exhibit ZZ was taken from your files?

A Yes, sir.

Q And, those files are maintained in the regular course of police business?

A Yes, sir.

MR. D'ALEMBERTE: Your Honor, we offer Exhibit ZZ for admission –

MR. WEISS: Your Honor –

MR. D'ALEMBERTE: – into evidence.

MR. WEISS: Your Honor, I would object at this time. The rules with respect to admissibility of public records exception, if it's a primary fact made by public officer in the performance of his public duties, that's one thing.

I've had an opportunity to review the document and [p. 142] we go far beyond any records of investigation and it goes into the exercise of judgment, discretion, talking about causes and possible effects, expressions of his own opinion, drawing conclusions.

So, he's going way beyond what would fall within the normal umbrella of public records exception and should not be admitted into evidence, because we're exercising judgment, discretion, expression of opinion, and conclusions. It's not a public record.

THE COURT: He testified that he was, in part, the author of the document. Mr. D'Alemberte seeks to have it admitted as a public record. I –

MR. D'ALEMBERTE: Your Honor – I'm sorry. I didn't mean to interrupt you.

THE COURT: No. Go ahead. I just don't know – I don't know that it's admissiblity [sic] depends on being a public record when, you know the author is presenting it.

I do feel it's germane or relevant to the inquiry if it goes to, you know, what efforts that the public authority

is doing in respect to the activities of the defendants in the area.

MR. D'ALEMBERTE: And, Your Honor, I think frankly my entry – of entry of it being a public document is gratuitous. It's already been authenticated. And, I don't have to rely on public record for authentication as [p. 143] Your Honor points out.

This is a memorandum – On what subject, if I may ask the Captain?

THE WITNESS: Impact training.

Q And, that's by what organizations, please, sir? And, that –

THE COURT: By what organizations, please, sir.

THE WITNESS: Does it relate to a specific organziation? [sic] I don't believe it relates to a specific organization. It just states how the police department will address any situation that may occur at the clinic.

And, it's directed to all personnel and copied to all the bulletin boards in the police department.

MR. D'ALEMBERTE: I tied that in, Your Honor, the earlier testimony that impact training was being participated in according to there evidence – according to information received by the captain, as I understand it from the captain. Let me ask it in the form of a question.

Q You received that information from Bruce Cadle that Operation Goliath and Operation Impact – or I mean Operation Rescue were involved in impact training?

A Correct.

THE COURT: But, how is it relevant to whether or not the court's injunction has been violated?

[p. 144] MR. D'ALEMBERTE: Your Honor, it indicates in memorandum form essentially what the captain has told us already. That is that he received information. And, we know part of that information came from Bruce Cadle, one of the defendants, that they intended to engage in certain kinds of activities.

Captain Allgeyer and the police chief of Melbourne thought it was important enough to put this in memorandum form and distribute it to all members of the police department that might go in contact with those demonstrations.

And, it's essentially the instructions to the police department about how to deal with these people who indicated to Captain Allgeyer they intended to break the law.

THE COURT: It's anticipatory; is it not?

MR. D'ALEMBERTE: It is in some measure, yes, Your Honor. It is and I will pick up from the date of this is actually, if I recall correctly, February eighteenth; is that correct?

THE WITNESS: Yes, sir.

MR. D'ALEMBERTE: And, pick up from that date and go forward. In a moment we'll have some video tape again to be shown of February twentieth, Your Honor.

You may want to actually look at the memorandum [p. 145] itself, Your Honor.

MR. WEISS: Your Honor, I have the same objection I had before. This is prejudicial. It's inflammatory. It's in anticipation of a problem. It doesn't have any bearing whatsoever on the conduct alleged to have been done by these specific individuals and therefore it's irrelevant.

THE COURT: I think I'm going to have to sustain that objection.

MR. D'ALEMBERTE: All right, Your Honor. May I just proffer relating to this document?

THE COURT: Surely.

MR. D'ALEMBERTE: May I retrieve the document? Your Honor, I'm not going to proffer because I think there's another way to get at the same issue.

Q In your discussions with Mr. Bruce Cadle or any other defendants other than the people you've already excluded as not having been a source of information, did you receive information that they would be experimenting with new tactics directed at the clinic?

A Yes, sir.

Q Now, did you find after February 18, 1993 that, in fact, there were some new tactics involved at the clinic?

A Yes, sir.

Q Could you describe those new tactics for us?

[p. 146] A One of the tactics was basically that the prolife people that responded to the clinic wanted to utilize the full extent of the city right-of-way.

What I put together was basically dividing the two groups with a neutral zone in the middle for police officers to be able to handle any situation that may occur between prolife and prochoice. When I did that, it worked very well.

But, as the crowds continued to grow on both sides, I had to do away with that neutral zone and just put one line of baricades [sic]. When I did that, I put baricades [sic] up and also provided an area here for the press. The prolife people –

Q That's indicating, I believe, the southeast side of the property?

A That's correct.

MR. WEISS: Southwest.

Q Southwest.

A Southwest.

Q Southwest.

A The prolife people or Operation Rescue demanded that they have the full extent to the city right-of-way. So, there were people going over baricades [sic] and everything else.

THE COURT: I didn't quite understand where your baricades [sic] were.

THE WITNESS: The baricades [sic] – The city or the property line runs from west to east half way between [p. 147] these two driveways for the parking lots.

THE COURT: There's a sidewalk in there somewhere?

THE WITNESS: There's a sidewalk that runs from this parking lot to this parking lot. It's very short. All the other parts here are – This is grass. This is driveway, and then a short parking – or sidewalk. So, there's only a little bit of city right-of-way available.

What we tried to do is provide reasonable accomodation to the protesters. And, I divided that up for prochoice and then the prolife people. But, there wasn't any prochoice people at the time. So, they went on and pushed the baricades [sic] and went in the press area and took over.

There were three people that were placed under arrest. And, the police chief responded and that was changed. We figured we didn't have enough probable cause at the time to actually charge them.

And, since then I have had the city attorney review that, and he has said under separate conditions –

MR. WEISS: Your Honor, a certain amount of hearsay, but the police, what their counsel's opinion was to them is really constituting hearsay.

THE COURT: Yeah. Sustained.

MR. D'ALEMBERTE: May I respond to Your Honor's inquiry?

[p. 148] THE COURT: Yes.

Q You mentioned a neutral zone. What is a neutral zone?

A A neutral zone is approximately four foot wide and it's baricades [sic] on both sides. And, that keeps the two parties apart from each other and also provides a space for the police officers to be able to walk back and forth and take care of any problems that may exist between the two parties.

Q Now, Captain, when there are large numbers of demonstrators there, and I'm talking about let's say this year, 1993, large numbers of demonstraters there, does it make it difficult for traffic to go down that road, which I believe is Dixie Way?

A Yes, sir. It does.

Q Can you describe that difficulty for us?

A Well, basically we had to have officers up and down that road to make sure nobody crosses the road as we had cars going down one side of it. Also, if we had an ambulance or fire truck that went down the road, it would present a problem to that emergency vehicle.

We have written tickets for people that have attempted to obstruct traffic. And, one case I had a child that ran across from this vacant lot where the prolife people park. We had a child run across the street and almost get hit by a car. And, that was about three weeks ago that happened.

[p. 149] Q All right. Now, the vacant lot you pointed to, is that a vacant lot that is available for prolife forces to use?

A Yes, sir. The owner has given them permission to park.

Q Okay. And, do they actually park there and sometimes stage demonstrations from that vacant lot?

A Well, not from the vacant lot. There is room on the right-of-way on that side of the road to accommodate them.

Q Captain Allegeyer, is a neutral zone something of value to you now in the present situation as we find the forces being assembled on each side at the Aware Woman's Clinic and demonstrations at this time?

A Yes, sir. It is.

Q Okay. Now, is there any difficulty with people being heard or seen if they were located across the street from the clinic?

A They're quite vocal. You can hear them across the street.

MR. WEISS: Your Honor, I'm going to interpose an objection. We're going into issue number two seeking some modification. I think what we're talking about today is if these folks violated your order.

What may have occurred and what they like is to push us across the street and push us out of town is irrelevent before the considerations here.

[p. 150] Q Is it possible for a large number of people who are coming for demonstrations in recent weeks to be accommodated on that narrow strip which is south of the property line of Aware Woman Clinic?

A Yes, sir.

THE COURT: North of the right-of-way? North edge of the right-of-way?

MR. D'ALEMBERTE: Yes, sir.

Q Is it possible for them to be accommodated there?

A Yes.

Q Without flowing into the road?

A Excuse me, that was on the north side of the road?

Q North side, yes, sir.

A No.

Q When large numbers of people come, if they're allowed on the north side of the road and spill into the right-of-way, is egress and ingress limited –

MR. WEISS: Objection.

Q – to the Aware Woman Center?

MR. WEISS: It calls for a hypothetical.

MR. D'ALEMBERTE: It's a yes or no answer, Your Honor. That's not a leading question.

MR. WEISS: Hypothetical.

MR. D'ALEMBERTE: Or hypothetical.

MR. WEISS: Hypothentical [sic]. This didn't really [p. 151] happen, is what I'm getting at.

MR. D'ALEMBERTE: I see your point, counsel. Let me make sure the predicate is set.

Q Have there been large numbers of people coming to demonstrations at various times at the Aware Woman Center in this calender year?

A Yes, sir.

Q And, can those – that number of people be accommodated on the north side of Dixie Way without spilling over into the street?

A On the last time that we had a protest of area clinics, we had approximately two hundred people on the prolife side and two hundred people on the prochoice side. That is a small area of property and very hard to accommodate that number of people on the north side of that road.

MR. D'ALEMBERTE: All right. Let me just check for another exhibit, if I may.

THE COURT: Captain, would they remain on the right-of-way or is there some sort of demarcation indicating the edge of the private property?

THE WITNESS: Sir, we have removed the barricades [sic], taking half of the right-of-way on that side of the street providing room for the prochoice people to exercise their rights. And, then we also have the same amount of property, right-of-way for the prolife people [p. 152] to exercise their rights.

THE COURT: But, you are dealing with public right-of-way again. Is there any – any line that indicates where private property begins and right-of-way ends?

THE WITNESS: Yes, sir. There is.

THE COURT: What is that line?

THE WITNESS: That line is painted on both of the driveways to each parking lot. And, like I explained, it's half way, it's in the middle of each driveway.

THE COURT: It would be the dotted line that's shown on this drawing?

THE WITNESS: Yes, sir. That's correct.

MR. D'ALEMBERTE: You want me to take that to him, sir?

THE WITNESS: That is correct.

THE COURT: You say that there is a painted line on those two driveways where that dotted line is?

THE WITNESS: That is correct.

THE COURT: All right. Is it understood that those who are demonstrating have to stay on the street side of that line?

THE WITNESS: That's correct, sir.

THE COURT: Do they?

THE WITNESS: They have so far, yes, sir.

THE COURT: All right.

[p. 153] Q All right. But, in staying on the street side of the line, do they then crowd into the public street?

A Yes, sir. There is a spill over into the street plus the pedestrian traffic from the vacant lot where they park over to the north side of the road provides quite a bit of movement back and forth.

Q And, during demonstrations have you – demonstrations at which Mr. Cadle was present, have you noticed that people were in the street, in fact?

A Yes, sir. And, I've discussed that with Mr. Cadle.

Q Have you asked Mr. Cadle not to have people in the street?

MR. WEISS: Your Honor, I again want to interpose an objection to people – There are two crowds. We have the proaborts and we've got the prolife. And, I want to make sure which people we're talking about crowding into the street. I don't think that distinction is clear in the question.

MR. D'ALEMBERTE: All right, sir.

THE COURT: If you would clarify it, please.

THE WITNESS: It would be prolife.

Q Have you discussed that with Mr. Cadle?

A Yes, sir. I have. I told Mr. Cadle on several occasions that my concerns are somebody being struck by a motor vehicle, that the issue of abortion is an extremely [p. 154] emotional issue, anybody that may be a client of the clinic that goes in on surgery days is under extreme emotion, and I'm concerned about people approaching these cars and they go down the street and into the driveway and possibly a person getting struck.

Q And, what was Mr. Cadle's response?

A Those people do what they want to do, basically.

Q All right. Now, what –

THE COURT: Let me understand, would they leave the grass or that part of the right-of-way other than the paved right-of-way and approach vehicles as they were coming down the street?

THE WITNESS: No, sir. They – Well, they're in the street and they have to move out of the way basically as a car comes down.

Also the paved portion of the driveway, they have them utilizing the right-of-way on that paved portion. If a vehicle is blocked as their sidewalk counselors approach the vehicle and attempt to stop it, those people are warned, warned more than once. And, when then after that they're written traffic citations for obstructing traffic.

THE COURT: Warned of what please?

THE WITNESS: To please do not block traffic.

Q Has that conduct continued on after warning?

[p. 155] A Yes, sir.

Q And, has it been repeated on successive days after warnings have been given?

A Yes, sir.

Q And, has Mr. Cadle himself been warned?

A I have talked to Mr. Cadle about it because he has a tendency to be in charge of what goes on out there.

And, I did let him know that I'm concerned about his sidewalk counselors.

Q All right. Now –

THE COURT: Sir, just a minute. Now, it's not clear to me and I doubt if it's clear on the record, but when you say sidewalk counselors, again that term has not been defined to me.

But, as cars were going down the street, they would approach cars from off of the paved right-of-way on to the paved right-of-way with some attempt to block the forward motion of cars while others would approach the cars on the side to communicate with the occupants of the car?

THE WITNESS: Well, basically what that is –

THE COURT: Just answer me yes or no, please, if you could, sir.

THE WITNESS: Yes, sir.

THE COURT: Thank you. Okay. Now, you can explain.

[p. 156] THE WITNESS: Okay. Now, what they do is they walk up to a car and attempt to hand literature through the window to the person driving the car. When they do that, it has a tendency for the driver to stop to see what – to see who's approaching.

In some cases the drivers have sped up and pulled into the parking lot at a high rate of speed to try to get away from those people because they're scared. That I consider obstructing traffic and they were issued citations.

Q And, has that conduct continued on in January, February, March?

A Yes, sir. We've written the same people many tickets.

Q All right. Now, Captain, have there been some, in some incidents that have also led to police investigations and the filing of police reports at the clinic?

A Yes, sir.

MR. D'ALEMBERTE: If I may have exhibits, my old eighteen through twenty. Now, Your Honor, these are now marked as Defendants', [sic] Exhibits Q, R, S, and T.

If I may identifity them for the record, Exhibit Q is relating to the incident that occurred on December 15, 1992 already described by the officer. R, January of 1993. S, February, 1993. And, T a March, 1993 incident.

[p. 157] Q Let me just ask you if you can identify these as being true copies of police reports?

MR. WEISS: May I take a look at them, please?

MR. D'ALEMBERTE: Sure. Counsel, I don't think there is any one of your clients identified in any of those. I'll make that representation to you and if you tell me you find any, I'll even change it.

If I may continue on, Your Honor, I don't need to introduce those right now. I just wanted to identify them.

THE COURT: Yeah. Go ahead.

Q Since February 18, 1993, the beginning of the impact training, can you describe for us the – any change,

if there were any change in attitudes of the people who are engaged on both sides of the demonstrations at the Aware Woman's Clinic in Melbourne?

A That was since January eighteenth?

Q Uh-huh.

A I would say that tempers on both sides, the fuses are running very short. They're more vocal than they were at the beginning. At the beginning they were very peaceful.

There were fewer prochoice people that were even there. Just some escorts in the parking lot.

And, the prolife people, their numbers have increased just about each week. And, there are a lot of [p. 158] children present.

I think the incidences of reports even shows that there's more incidents of police related activities that has taken place there.

Q All right. And, those reports that you just referred to, would there be greater numbers of reports, for instance, in recent times than, let's say, back in 1992?

A Yes, sir.

Q And, is the situation at Aware Woman's Clinic more precarious today or less precarious than it was September 30, 1992?

MR. WEISS: Your Honor, I object to the form of the question. Is a situation more precarious is vague and ambiguous. You've got the proaborts and you've got the prolife. They're getting hot with each other. It has nothing

to do with whether or not my clients violated the injunction. I think it's irrelevant.

MR. D'ALEMBERTE: Your Honor, my purpose in asking him that is to find out whether we actually are dealing with something which has actually escalated since the injunction was entered. Rather than complying with the court's order, there's actually been an escalation since the court's order.

And, it goes, I would concede it would be very good evidence if we were seeking a modification at this point. [p. 159] But, it's certainly equally good evidence for purposes of showing disregard for the injunctive order and an attempt to block ingress and egress into that facility.

THE COURT: But, if they someway relate to the name defendants or their organization.

MR. D'ALEMBERTE: I thought I had done that already, Your Honor, and as –

THE COURT: Well, he uses the term prochoice without referring to any organization. That's a little confusing to me as to whether we're dealing with multiple organizations or –

MR. D'ALEMBERTE: Let me try this, Your Honor.

Q Captain Allgeyer, is it your understanding that there are organizations behind the – these impact demonstrations?

A Yes, sir. There is.

Q What is your understanding about the organizations that are behind those impact demonstrations?

MR. WEISS: Your Honor, what is the foundation of how he knows, before he goes into that.

MR. D'A' MBERTE: We've done it once, Your Honor, but we'll go do it again.

Q My understanding – did you not have a conversation with Bruce Cadle?

A Yes, sir.

[p. 160] Q Did Mr. Bruce Cadle tell you who was involved with the impact program?

A Yes, sir.

Q Did he indicate to you that Operation Goliath or Operation Rescue were involved in impact training?

A Yes, sir.

MR. D'ALEMBERTE: Your Honor, I think it's all repetitious. I've done it before.

THE COURT: All right. But, again, did he indicate to you what the distinction was between Operation Goliath and Operation Rescue, if there's one?

THE WITNESS: Not in that conversation, no.

THE COURT: More involved or less involved?

THE WITNESS: My understanding is that Operation Goliath is more on a local level. And, Operation Rescue is on a national level.

THE COURT: And, the relationship between the two, is there any direct relationship or are they separate organizations?

THE WITNESS: That I can't answer. I don't know for sure.

Q Did Mr. Bruce Cadle indicate to you he was active with both organizations?

A Yes, sir.

THE COURT: All right. Yes, you've covered that [p. 161] before and you may proceed.

Q All right. Now, when I refer to an impact demonstration, you understand what I mean and that has meaning to you?

A Yes, sir.

Q And, have the impact demonstrations raised the temper of the situation on the grounds at the clinic since February 18, 1993?

A Yes, sir.

Q Okay. And, have the activities of the impact demonstrations made ingress and egress more difficult?

A Yes, sir.

MR. D'ALEMBERTE: All right. Your Honor, let me check my notes for a moment.

THE COURT: All right. You had asked him about the reports. Are you tendering those?

MR. D'ALEMBERTE: Your Honor, let me – I will tender those, but limited purpose. I do not think that those reports will show violations of the injunctive order on individuals.

I think he has already testified as to some activity that it does indicate violations, but those are just – would indicate, if I may represent to the Court, some thefts, a criminal mischief, other activities that have taken place, some of it at the time of these [p. 162] demonstrations, some of it at times where no demonstrations were around, but increased criminal activity directed towards the clinic.

There are also at least two of those reports, Your Honor, which are incident reports claiming that someone associated with the prolife activity – prochoice activities had somehow offended someone associated with prolife. So, it is not all – we're not trying to point fingers at one direction or the other.

We're just trying to show the escalating activity. That's the only purpose we offer those exhibits there. We would offer them for that purpose.

MR. WEISS: Your Honor, I think it's irrelevant and immaterial. These folks are being charged with sanctions. Their names aren't present anywhere in any of these documents.

I think besides being irrelevant and immaterial, it's prejudicial and inflammatory in that it says this amorphous prolife group somehow these folks' activities are connected with the activities of my clients.

And, so without that nexus being shown, without my clients being named anywhere in here, I think it's irrelevant and immaterial to the issues here today.

THE COURT: Yeah. If –

MR. D'ALEMBERTE: Your Honor, it's not an important [p. 163] thing to me. I think he's already said it in his testimony. I think that was the point that we needed.

THE COURT: All right.

MR. D'ALEMBERTE: Let me just get this one minor point in.

Q Captain Allgeyer, at the time – at the event incidences of theft reported at the time these impact demonstrations have taken place at the clinic?

A Yes, sir.

MR. D'ALEMBERTE: That's all.

THE COURT: Theft of what, sir?

THE WITNESS: There was the theft of some stereo speakers that were placed on the exterior of the building. And, they were turned on during the surgery to drown out some of the yelling that the Operation Rescue and Operation Goliath people caused during their demonstrations. Those were removed from the building.

THE COURT: And, was that activity attributable to any of the defendants?

THE WITNESS: I cannot say for sure.

MR. D'ALEMBERTE: No charges were ever made on those, Your Honor, I believe.

Q Were there also some instances relating to a mischief to automobiles on the dates that these impact demonstrations in the calender year 1993?

[p. 164] A Yes, sir.

Q And, what were those instances?

A Several of the people from the –

MR. WEISS: Again, unless this is going to be tied to my clients in any way –

MR. D'ALEMBERTE: Again, no one was charge [sic], no culprit was found, Your Honor. I've only tied it to the impact demonstration. And, I think the only defendant that –

THE COURT: If it happened during the impact demonstrations, impact sponsored the demonstrations, then I think it's relevant.

MR. D'ALEMBERTE: Certainly circumstantial is all.

MR. WEISS: I don't think it's been demonstrated that impact sponsored any of these demonstrations, knew these people who was out there on the street, what organizations they were associated with. How does he know what – Does he know the members of the impact organization?

MR. D'ALEMBERTE: I've been over it three times, Your Honor.

THE COURT: Yeah. Overruled.

Q What were the incidents to the cars?

A Okay. Some of these prochoice people parked their vehicles in this vacant lot early one day. And, what happened [p. 165] was one lady made a complaint that

somebody tried to put a potato in her tailpipe. Another lady filed a complaint that her – all four tires had some roofing nails placed in them. Those police reports were taken.

MR. D'ALEMBERTE: Okay. That's all I have, Your Honor.

THE COURT: All right. Cross-examination?

MR. D'ALEMBERTE: Your Honor, May I return Exhibit ZZ.

CROSS-EXAMINATION

BY MR. WEISS:

Q Since the entry of this court's order of injunction, have you charged Judy Madsen, Ed Martin, Bruce Cadle or Shirley Hobbs with trespass of the clinic property?

A No, sir.

Q Since entry of this court's injunction in September, have you charged Ed, Judy, Bruce Cadle or Shirley Hobbs with obstructing the passage of any motor vehicle on the street?

A Yes, sir.

Q Okay. Who was that?

A Shirley Hobbs.

Q Okay. And, what was she charged with?

A Obstructing traffic.

Q Okay. And, that's a civil infraction?

[p. 166] A That's correct.

Q And, what's been the disposition on it? Do you know if she was convicted?

A I don't know. I know she's received more than one citation.

THE COURT: For the same offense?

THE WITNESS: Yes, sir. Separate days.

Q Did Ms. Hobbs refuse to accept and sign the traffic citations?

A At one time, yes, sir.

Q Did she subsequently accept the citations?

A On the date that that occurred the first time, she would refuse to sign the citations. It's the police department's stance that we will make an arrest on our terms, not on the protester's terms. The citation was voided. At subsequent times –

Q I want to make sure I've got that. The citation was voided?

A Yes, sir. She refused to sign it. The next charge to take place would be a misdemeanor charge of refusing to sign that citation. That ticket was voided and a misdemeanor charge was not placed on her.

And, the next time she was talked into signing the ticket.

Q Did she physically abuse, slap you, punch you, hit [p. 167] you?

A No, sir.

Q Did Judy Madsen, Ed Martin, or Bruce Cadle ever physically touch your or any officers in your presence?

A No, sir.

Q Now, the potato, did you take the potato in for fingerprints to see whose fingerprints were on it so you could track it down?

A No, sir. It was not.

Q Now, the roofing nails, did you take those in for fingerprints to see whose – maybe a proabort put it by accident under one of their guy's car?

A Normal procedure on a misdemeanor crime we don't do that. We have enough felony cases to keep us busy.

Q Now, you're in charge of planning and handling the operations for any disorder at this clinic; right?

A Correct.

Q That's your job?

A Yes, sir.

Q Now, are you competent to do that job?

A I hope so.

Q Okay. And, to today's date, every instance has been handled competently by the Melbourne Police Department; has it not?

A Yes, sir.

[p. 168] Q Do you have enough manpower on the Melbourne Police Department to control the situation in ever [sic] single instance from the date of his order to this date?

A Yes, sir.

Q Never called in the National Guard?

A We wouldn't call in the National Guard.

Q The Brevard County Sheriff's Department was not required?

A They were on standby, but not required.

Q Any amored [sic] personnel carriers, tanks?

A We don't have any tanks.

Q Now, you talked about this impact group. How many members are in this impact group? Do you know how many members?

A It's my understanding the impact training group has approximately twenty to thirty members that attend training. And, then they have their rallies on Friday night where they have anywhere from two hundred to four hundred people.

Q Now, those are rallies at church?

A Yes, sir.

Q Okay. Did you arrest anyone at the church for holding those rallies?

A No, sir. That's their constitutional right to have a rally.

Q Okay. Now, these twenty – I think you said twenty [p. 169] to thirty members of the impact group, do you know any association whatsoever between Judy Madsen, Ed Martin, and Shirley Hobbs in the impact training sessions?

A No.

Q Okay. Do you know anything illegal that is being instructed in any of those impact training sessions? Any illegal activities these folks are being told to engage in?

A Sir, I have no idea. It's a closed training session except for last week. They invited the press in.

Q Now, when the press was invited in, did representatives of the police department go as well so you could scope out and see what they were up to?

A We weren't invited in.

Q Did the representatives of the press record what they saw or put it in the paper?

A I understand on a scheduled basis, yes, sir.

Q And, did you read the reports of what was being taught in those sessions?

A I've watched the six o'clock news.

Q Okay. Did you and what you saw on the six o'clock news see any one at this impact training session training anyone to do anything illegal?

A Not in that space of time that they filmed, no.

Q Okay. Do you have any undercover operatives, I won't ask their names, that are investigating this [p. 170]

organization to see if they are engaged in any illegal activities?

A No.

Q Okay. Now, you talked about this neutral ground. What you are talking about is putting a neutral ground between the proaborts on the side of the clinic and the prolifes on the other side?

A That's correct.

Q What you're trying to do is keep two people who are diametrically opposed on a very sensitive issue, keep them apart so they don't start swinging at each other; right?

A I put together a plan that I thought would work very well. When we implemented the plan, in the newspaper the next week, and there were several fliers that came out through Operation Rescue, which was started by the impact team was that the Melbourne Police Department was regulating the ability of Operation Rescue to exercise their freedom or religion, and that is praying in the public right-of-way.

So, what they did is they basically tried to put us in the middle of this abortion argument and we didn't want to be there. So, the chief decided to move the baricades [sic] to the property line, which gives them all the right-of-way that they want.

Q All right. Now, did the representatives of the proabortions, they have escorts and burly NOW women that are [p. 171] helping the women take their bodies in so they can have the abortion procedure performed; right?

A Well, from the property of the clinic.

Q Now, do the – does the clinic prohibit the proaborts to be up on the clinic's property or is that okay with them?

A That's against the law to be trespassing.

Q Does the clinic ever instruct –

A Excuse me. Do you mean the proaborts to be on the property?

Q Right. Do they?

A Yes, they do.

Q So, they've got the access of the entire clinic property. And, the clinic has never come to you and arrest these proabortion people. They're trespassing. That's acceptable conduct; right?

You've never arrested a proabortion person for trespassing on the clinic?

A I only arrest people for trespassing if the owner of that property asks them to leave and they refuse. They would be placed under arrest.

Q Now, this screaming and yelling that takes place, do the proaborts, are they silent as lambs or do they raise their voices?

A At times they raise their voice.

[p. 172] Q Okay. And, have they ever raised their voice and increased the volume of sound at a time when patients were coming in to have an abortion procedure performed?

A Yes, sir.

Q Okay. So, there could be some tension associated with the event as a result of the altercation between the two groups; correct?

A That's correct.

Q So, in fact, the proaborts in yelling and screaming to the prolifes are elevating the tensions and increasing the sound; right?

A I would say that's a combination of both sides.

Q Okay. And, with the speakers that the Aware Woman's Clinic had, they had loud speakers out there that they blared sound at the prolifers; right?

A No.

Q What – Did you ever hear the speakers being utilized?

A For music.

Q On the building?

A For music.

Q So, is this an entertainment facility? Or what's the purpose behind the playing of the music?

A From my feeling, the music's not loud enough to drown somebody out if they wanted to scream.

[p. 173] Q Okay.

A I could hear the screams over the music, let's put it that way.

Q Okay. So, you've got speakers playing music. Is this rock music or we are talking classical? What kind of music?

A After a while I didn't even listen. I don't think it's hard rock. I think it's just easy listening.

Q Now, does the altercation between the proaborts and the – I want to get these names straight – the prolifes, does that altercation cause them to pushed into the twenty-four foot wide paved area?

A You mean the road?

Q Yeah. I mean because you've got more people than the property – than the right-of-way can handle; right?

A We had, at one time some people, prochoice and prolife people that shared the roadway. That was during the first protest they had I believe on January twenty-third.

Due to the crowds growing, we're trying to prohibit that and separate the groups. The original plan I had was dividing the the [sic] street in half, placing baricades [sic] on this half of the street and allowing the Operation Rescue and Operation Goliath to enter that baricaded [sic] section of the road and allowing this road between those baricades [sic] and the clinic, leaving that open for flow of traffic where it could not be [p. 174] interferred [sic] with.

Q Did you ever consider letting the proaborts be close to the clinic on the clinic's property and giving right to lifers access to the full public right-of-way, not blocking the street, but the sidewalk, the public right-of-way?

A What was that again?

Q Did you ever consider giving the proaborts access to the full clinic property, grass, everything up to the building so they could have the entire parcel belonging to whoever owns the property and letting the prolifers have the entire right-of-way?

A Yes, I did think about that. But, it doesn't work because at the property line to the clinic we have baricades [sic] and there were bushes between this parking lot and this driveway which does not provide them access on that clinic property. The only access they would have is this parking area here and this driveway and parking lot.

Q Okay. Anywhere from here up, from the hedge up, the proaborts could surround the whole clinic if they chose to; right?

A No. Wrong.

Q Why not?

A On this side of – along U. S. One, on the west side of the road, we have approximately five feet where they can walk up and down U. S. One. There is a ditch in back of the [p. 175] property. They do go along the back of the property, the prolife people and put fences up and yell over the fence – or put ladders up and yell over the fence at people – at clients as they pull in the parking lot.

On the west side of the road there is a six foot high fence, with the gentleman who lives in the house next door will not allow them on his property. So, they will be arrested if he sees them on the property and warns them to leave in one of our presence.

Q Do you ever see any of the proabortion folks with cameras?

A Yes, sir.

Q Okay. The proabortion folks have cameras?

A Yes, sir.

MR. WEISS: Excuse me just a moment.

Q When you said about the traffic citations being issued, you looked at this lady in the back, sitting in the back row; correct?

A (Nods head)

Q Okay. Do you know that that's no Shirley Hobbs or do you think that is Shirley Hobbs? Would you raise your hand? Do you know who that person is?

A Sir, I didn't write the citations. That was the lady that received the citations.

Q Okay. I guess she can't testify, but would you take [p. 176] my word for it, her name is not Shirley Hobbs. She's one of my clients. You don't know who she is; right?

A Her name is Shirley. If the last name is not Hobbs, I don't know –

Q Trust me. It isn't Shirley Hobbs. Now, why are the proabortion groups taking pictures of the anti-abortion groups? Did you ever ask them?

A Sir, everybody is taking pictures of everybody there.

Q Do they have their cameras right up in the face of the prolifers?

A They have them in the face of the prolifers. The prolifers have them in the face of the proabortions. They have them in the face of the police officers. The police officers are photographing everything. They spend more on cameras than just about anything up there.

Q Now, I believe you said that your police chief overruled your decision about putting the baricade [sic] between the two groups?

A No.

Q Oh, I know what it is. He overruled the decision about arresting them for taking over the press area.

A That's correct.

Q Okay. So, when they moved into the press area, the chief said, no, we're not going to prosecute for that.

A (Nods head)

[p. 177] Q Okay. Now, when traffic is going up and down Dixie Way, can you identify by name the persons in Dixie Way to associate them with the proabortion groups trying to escort them into the clinic from the prolifers who would hope they won't go in there?

A Sir, we don't allow anybody to interfer [sic] with that traffic, whether they're prolife or prochoice. That's the City of Melbourne's roadway. And, we will direct traffic, if it needs to be directed. They will not interfere with it.

Q Okay. Has that been a problem? Have you at all times been able to get the traffic down Dixie Way?

A At all times we have been able to. We have had to write some tickets.

THE COURT: Captain, is Dixie Way a through street? Does it go some place?

THE WITNESS: Yes. Dixie Way goes all the way west and there's a turn around to another street. The only access that you have is Dixie Way here and then the next street south is Old Colonial Way, which is like a horse shoe around to Dixie Way.

THE COURT: Okay.

THE WITNESS: So, the only access to the clinic is off U. S. Highway One.

MR. WEISS: Nothing further, Your Honor.

THE COURT: Redirect? I'm sorry. Mr. Cadle.

[p. 178] CROSS-EXAMINATION

BY MR. CADLE:

Q Good evening, Captain Allgeyer.

A How are you?

Q You mentioned earlier, Captain Allgeyer, that the same people have gotten many tickets. Was that for obstructing traffic?

A Yes, sir. That's all we've done as far as enforcment [sic] at that location.

Q Do you know how many tickets have been given out?

A I can't recall exact numbers, no.

Q Any idea?

A I would say there's at least four to five citations that have been written for obstructing traffic.

Q At least four to five. And, you believe that someone named Shirley Hobbs, although I can also personally attest that the lady in the back is not named Shirley Hobbs, you believe that some people have received many, I believe many was the word, many tickets to the same people?

A More than one, approximately two.

Q More than one.

A Yeah.

Q Captain Allgeyer, since the beginning of this court order September thirtieth, I believe, of 1992, and you've [p. 179] relayed information related to impact demonstrations. I believe you said that the impact training class started on January eighteenth of 1993; is that accurate?

A Yes.

Q On January twenty-third, the first Saturday, the first day of demonstrations at Aware Woman Clinic, approximately how many police officers were present?

A I utilized twenty-five officers initially. At noon I had to relieve some of those people because they were

scheduled to work the midnight shift. I called in another twenty-five. So, approximately fifty officers.

Q Fifty police officers throughout the day?

A Yes, sir.

Q Were there any arrests made?

A No.

Q No arrests. Were there any citations for blocking engress [sic] or egress?

A No.

THE COURT: That was January when, officer?

THE WITNESS: Twenty-third.

THE COURT: Saturday; is it?

THE WITNESS: Yes, sir.

Q In the Saturdays since January twenty-third, since these demonstrations began, what would be the average number of police officers present on Saturdays?

[p. 180] A Usually there's four officers, three of them are utilized for traffic control and crowd control. One of them is the video tape person to video tape any warnings or events that we provide and utilize myself.

Q So, what would the total be, then?

A It would be five total.

Q Five total. Have there been any arrest on any Saturday, any date since January twenty-third, since these demonstrations have begun, have there been any arrests at Aware Woman?

A No official arrests.

Q No official arrests. You mentioned some people were arrested and later released –

A No.

Q – due to probable cause, I believe was your statement.

THE COURT: He did not say that.

MR. CADLE: I thought that was his statement.

THE COURT: He didn't say anything about probable cause.

MR. CADLE: I apologize, Your Honor. I thought that was his testimony.

Q These officers, these five officers on an average Saturday, is Saturday the typical demonstration day? Is that the day of concern?

[p. 181] A Uh-huh.

MR. WEISS: Excuse me, Your Honor, I need to interpose, he need to answer verbally. We all know he is saying yes or no.

THE COURT: He nodded yes. If you would verbalize your response.

THE WITNESS: Yes.

Q Do these officers respond to a call from Aware Woman or are these fifty officers on January twenty-third, did they respond to a call from Aware Woman a crime has been committed and the officers respond or what brings them to that site?

A We respond there basically for the requirements of any police agency towards a community and that is to provide safety. And, in the demonstrations that we have there on Saturday, there's anywere [sic] from two hundred to four hundred fifty people. And, officers are required there for crowd control.

Q So, the officers go out in advance of any activity, set up baricades [sic] or man their positions. They're not called out because of a crime in progress or any crime has been committed?

THE COURT: Did you say two to four hundred?

THE WITNESS: Two to four hundred people, yes.

Q Captain Allgeyer, are you familiar, there are three organizations named on this court order. Are you familiar [p. 182] with the differences between Operation Rescue, Operation Rescue America, and Operation Goliath? Do you have any first hand, factual knowledge of whether those organizations even actually exist or whether those are legal entities?

A Not other that what you told me, Mr. Cadle, at a meeting at the police station.

Q Okay. Captain Allgeyer, you mentioned earlier that you have talked with me about people who were blocking ingress or egress. Have you given me a warning relating to me personally blocking ingress or egress at Aware Woman Clinic during this time period?

A I asked you that the people that are there, you have a tendency to control –

Q Have you given me personally a warning related to my personal blocking?

A I don't remember you blocking the roadway.

Q You don't remember me ever blocking the driveway ingress, egress of Aware Woman Clinic?

A No.

Q The specific actions that this motion that we're here today to discuss, Captain Allgeyer, is trying to find me guilty of trespassing on, sitting in, blocking or obstructing ingress into or egress from any facility at which abortions are performed in Brevard and Seminole County, Florida.

Have you seen any of that or heard any of your [p. 183] officers testify to my participation in those activities? Sitting in?

A Not you personally, Mr. Cadle.

Q Not me personally. It also seeks to find us in contempt of court for physically abusing persons entering, leaving, working or using any services at any facility which abortions are performed in Brevard County.

Have you seen me physically abuse anyone entering or leaving Aware Woman Clinic?

A Not you personally, Mr. Cadle.

Q Or attempting or directing others to take these actions? Have you seen me attempt to direct someone to physically abuse someone entering or exiting?

A No, Mr. Cadle.

Q Thank you. You described earlier that there were two to four hundred people on an average Saturday. Is that the number of prolifers? Is that the number of the crowd?

A That would be total number.

Q The total number of the crowd. The first few weeks of these demonstrations, after we had met and we had discussed various crowd control situations and we met again, I believe, with the chief of police.

The first several weeks, is it true that the baricade [sic] situation changed? That crowd control techniques changed? That some Saturdays the baricades [sic] were in the middle [p. 184] of the street forcing people into the street, sometimes the baricades [sic] were up on the property line, other times they were somewhere in between with a buffer zone? Is it true that they varied each week for the first several weeks?

A Yes, sir. Basically because we did not know the size of the crowd we would face nor the tactics that would be provided because we knew each week in the impact training different tactics were taught.

Q Is it true that the police action of baricades [sic] actually forced people to stand in the public street at certain times during these demonstrations?

A Mr. Cadle, with the size of the crowd –

Q I'm just asking is that true?

A With the size of the crowd, yes.

Q So, someone standing in the street could have been doing so by direct police action by police baricades

[sic] that would have directed them to stand in the street? Is that accurate?

A There is not much room in that area, yes.

Q You mentioned a press area. Was that press area on the public right-of-way that you were describing?

A Yes, sir.

Q Was it labeled as a press area?

A It was baricaded [sic] with police line tape.

Q Did it say "press", anything about the press on this [p. 185] area? Just a public right-of-way area that was blocked off. Were there press inside of that area or did the press ever request a baricaded [sic] area for them to stand in?

A The press normally when they respond to a location like that, we try to have an area available for them.

Q Did the press ever request that or were there press inside of this particular area, this specific area?

A There had been.

Q There were press inside of that area?

A What time period are we talking about?

Q Has there been more than one day in which you established a press area?

A Yes, sir.

Q And, that press area was established because the press asked for that area or they – no one asked for that area?

A Sir, through experience in law enforcement, when you have a situation like that, you either provide an area for the press or they find an area. So, it's better to be prepared.

Q The neutral zone you described, this buffer zone trying to separate these two sides. The proabortion side would be toward the building and the prolife side would be on the outside. Was that area at the property line or was that buffer area out on the public area?

A That area was out on the public right-of-way.

[p. 186] Q So, there was public right-of-way area in which prolifers were not allowed? Is that accurate?

A You mean with the buffer area?

Q Yes. Was there public right-of-way along there in which prolife individuals were not allowed to stand?

A There was an area were nobody was allowed to stand but Melbourne Police officers.

Q Okay. When this buffer zone has existed, has there been a statement or announcement to the proabortion crowd that they're not allowed to come around on to the public right-of-way or street area or were they allowed to come in that direction if they're out –

A At that time there was none given.

Q Never been an announcement to them?

A I did tell them on several occasions, including Ruth Aric (phonetic) to please stay on the clinic side of the property. But, there was nobody arrested. They were asked to stay on that side of the barrier.

Q And, have you ever observed me step across this painted line that's supposed to be the property line?

Have I ever been charged in your presence with ever, ever trespassing on this property?

A Ever?

Q To your knowledge?

A I can't recall if you have ever been charged in [p. 187] previous rescues at the clinic. But, not since January eighteenth, now.

Q Have you had reason to see vehicles pulling into the Aware Woman parking lot without license plates on their cars?

A Yes, sir.

Q Is that legal or illegal in the State of Florida?

A It is illegal.

Q Has there been any police action? Have those people been ticketed as they drive into the parking lot without a license plate?

A It is the policy to warn those people, varify [sic] they do have a tag that accessible in the vehicle and we ask them at the earliest convenience when they leave the clinic to please put the license plate on.

We provide them with the same courtesy we provide your sidewalk counselors that obstruct traffic. We provide warnings.

Q And, how many vehicles would you say you've personally seen driving into that parking lot without a license plate?

A I would say approximately five or six.

Q Approximately five or six. How many of those people have you warned or directed another officer to warn that they had to put the license plate on?

A Five. One was written a citation because of an [p. 188] attitude problem.

Q Because of an attitude problem. Have you ever seen any people associated with Aware Woman, whether they're an employee or volunteers and you've said there were two to four hundred people involved on both sides. Have you ever seen them in the driveway? Have you ever seen anyone related to Aware Woman calling themselves prochoice stand in the driveway?

A Yeah.

Q Have you ever seen them line up across the driveway?

A Yes, sir.

Q Has the Melbourne Police Department during these demonstrations ever chosen to block or close this street Dixie Way?

A Yes, sir.

Q And, they would do that by a line saying the street was closed?

A Signs and baricades [sic], yes.

Q Bringing your attention to this general property, we see the median listed on out on U.S. One. Are individuals allowed to stand out on the median on U. S. One in front of Aware Woman?

A We have not allowed them to stand out there, no.

Q Are individuals in the City of Melbourne allowed to stand out in other medians strips in front of other businesses [p. 189] for the purpose of soliciting donations?

A Yes, sir. But, it is a violation of law to have signs in their hands.

Q To have signs in their hands. So, if they were to say "Fundraiser for Leukemia" and standing in the median in the City of Melbourne, that would be a violation of law?

A I've never seen that type of sign before. I review all permits for that type of activity. And, several times I have put down on those permits request adult supervision must be present and traffic – they must not obstruct traffic at any time.

Q Captain Allgeyer, I read to you earlier the charges from this motion related to trespassing, sitting in, blocking ingress or egress, physically abusing individuals. The plaintiffs would desire to find me guilty.

In your professional opinion as an expert police officer, you've stated that you have not seen me do any of those activities. Do you believe that in any way I'm guilty of those activities?

A Not directly, no.

MR. CADLE: Thank you. No further questions.

REDIRECT-EXAMINATION

BY MR. D'ALEMBERTE:

Q Captain Allgeyer, you indicated in the beginning of [p. 190] your cross-examination that the Melbourne Police Department was competent to handle the job. Would enforcement of the injunction against organizations conducting these obstructions to egress and ingress hamper your job in any way at all?

If the court were to enforce the injunction against organizations that were hendering [sic] egress and ingress into the facilities, would that hamper your job at all?

A No.

Q Would it help your job?

A Yes, sir.

Q All right. Now, as you've mentioned a moment ago, apparently quite a lot of camera equipment is out there on the scene?

A Yes, sir.

Q For what purpose do the police bring a camera to the scene?

A Basically we wanted to video tape any warnings that the officers may give to anybody that may obstruct traffic or even record a warning on a trespass of the property.

The second reason is to protect the officers to record their contact where there may not be – if there's a citizen complaint filed and an internal investigation or

even a civil rights violation that we have that documented on tape.

Q Do you have any reason to think that civil rights violations would be filed against the officers of the [p. 191] Melbourne Police who are working at this scene?

A Yes, sir.

Q And, what is that reason?

A Well, basically because of the meeting I had with Mr. Cadle discussing –

MR WEISS: Your Honor, I'll object. This is extremely hypothetical and calls for –

MR. D'ALEMBERTE: It's not hypothetical. He said he had a meeting with Mr. Cadle.

MR. WEISS: If a civil rights action is taken, that's not subject to a violation of this court's order and sanctions. It's irrelevant and immaterial that these people may at some future time file civil rights actions.

MR. D'ALEMBERTE: Your Honor, it's exactly the idea that Mr. Cadle and the people who are defendants in this case, not all of them, are trying to do their best to get the Melbourne Police Department to back off their job by threatening them with civil rights violations.

That's the reason for the court – the Captain's already said it would be helpful to the police department to have the injunction enforced. But, he's now also said that Cadle has made some suggestions about the filing of civil rights against the police officers, so much so that they send one of four officers out there as a camera man

for the purpose of protecting – in part [p. 192] protecting them from that. That's my very point.

MR. WEISS: Your Honor, it's irrelevant, immaterial. It's a subject of another lawsuit, if it's ever filed. It certainly wouldn't constitute a violation of your sanctions. We all have a right to redress the court for grievances. If one is filed, that is the subject of a different dispute.

MR. D'ALEMBERTE: If it is, now we're dealing with the threat of one. That's the only question, Your Honor.

THE COURT: If the threat was made, it wouldn't – well, it would tend to support the allegation of a violation of the injunction because, the question is whether or not those individuals subject to the court's injunction have engaged in activities in violation of the injunction. I'll permit it.

Q Do you remember the question, Captain?

A Could you repeat it?

Q The question was, we were talking cameras, you remember. And, you indicated that there were five officers, including yourself and one of them has a camera. You indicated one of the reasons they have a camera is to protect the officers from illegitimate claims; is that correct?

A Yes.

Q All right. Now, does your fear of illegitimate claims come from a conversation with Mr. Cadle?

[p. 193] A Yes, sir.

Q And, what did Mr. Cadle tell you?

A Mr. Cadle basically told me that some of the impact training would be to go to the courthouse and learn how to file lawsuits and also instruction on civil rights violations.

Q All right. And, what did you understand this conversation to mean?

A It means basically that the police department was going to be watched very closely by Mr. Cadle and the impact team and Operation Rescue. And, also any action by people at the clinic could result in a lawsuit also.

Q Now, Captain Allgeyer, in your studies of police work, have you had some training also in the law of constitutional rights? Of citizens' rights to free speech and communication?

A Yes, sir.

Q Now, let me ask you, if I may approach the chart, Your Honor, this area along U. S. One, is there an area there in which people can hold up signs and communicate their sentiments on the issue?

MR. CADLE: Your Honor, I would like to object. I believe this line of questioning is related to the second motions which was filed which the court is not hearing today. It has absolutely nothing to do with whether myself and any of the named defendants have broken this [p. 194] injunction we're being charged with today.

MR. D'ALEMBERTE: My understanding, there was a conversation about the median strip. Somehow, as I understood from Mr. Cadle, some suggestion that somehow there was a limitation by the police department in getting communication out. I'm just trying to make it clear the police department is not acting that way.

There is plenty of ways to communicate if all they are trying to do is communicate. They're trying to intimidate and trying to really stop ingress and egress. They may not want to go to a different location, but communication is available there.

It was Mr. Cadle that raised the median strip. I just want it clear in the court's mind there is no problem there.

THE COURT: You were referring to the westerly right-of-way.

MR. D'ALEMBERTE: Easterly, right.

THE COURT: Rather than on the unpaved portion of U. S. One?

THE WITNESS: Yes, sir.

MR. D'ALEMBERTE: I'm sorry. It's the easterly. I'm right now. I had it turned around earlier, but I think you've got me straightened out. I think it's on the easterly side of U. S. One.

[p. 195] THE COURT: No.

MR. D'ALEMBERTE: Eastern to the property line, Your Honor, but west of U. S. One. You are correct. I apologize. I don't know how I'm going to find my way home, Your Honor.

MS. PATRICK: Your Honor, left and right always work for me.

MR. D'ALEMBERTE: I'm sorry, Your Honor.

THE COURT: It is as much to answer Mr. Cadle's objection that the right to demonstrate, the right to peacefully protest is preserved. I think there is confusion. I think it's germane as to what is available or that there would be no blocking of the entrances to the clinic. You may inquire. Overuled.

MR. D'ALEMBERTE: Thank you, Your Honor.

Q And, then if I may go now south on U. S. One also, this area, along U. S. One, again the western side of U. S. One is available for protesters?

A That's correct.

Q Now, is it true you cannot reach the clinic without coming off U. S. One somewhere on this horseshoe?

A Yes, sir.

Q If I describe, Dixie Lane – Dixie Way goes and then turns south; is it?

A Yes, sir.

[p. 196] Q And, then back to –

A Old Colonial.

Q It's Old Colonial Way that comes back – So, a car entering would have to come off from U. S. One.

A Yes, sir.

Q So, in terms of communicating, for the purpose of communication, if you're on U. S. One, you can communicate?

A That's correct.

Q And, be seen and heard?

A Yes, sir.

Q Okay. Now, there is some question about the practice of placing baricades [sic]. As I understood the suggestion being made by opposing counsel on cross-examination, it was some how the baricades [sic] forced people into the street. Did I understand that correctly? Do the baricades [sic] force people into the street?

A That's the question that was asked. But, what the baricades [sic] do is provide reasonable accommodation for the people that are protesting, provide them a safe haven to be able to protest.

Q Now, in looking at the –

THE COURT: Now, to the extent that they, if I understood the question correctly, when the numbers exceed the area available, they go to the street?

THE WITNESS: Bascially [sic] what we did, Your Honor, is [p. 197] we put baricades [sic] up dividing the street in half, taking the southern portion of the street and blocking that off and making Dixie Way a one-way street in front of the clinic which would be westbound.

This provided a reasonable accommodation for the protesters. They could be heard, plus it provides safe ingress and egress into the clinic. And, I imagine, I understand that's where that they were forced into the road.

The people, the prolife people did not like that because the Melbourne Police Department didn't let them utilize all the public right-of-way which they felt they were due.

And, there was fliers passed around, articles in the newspaper that we were making up our own rules. And, the chief of police made a decision at that time to give them all the right-of-way they wanted.

Q That meant they were in the street?

A Then they were in the street, but crossing from the vacant lot where they parked over to this right-of-way on the north side of the road. Children and adults both going back and forth constantly to their cars to eat and back over. And, it was really tying up this road. And, the baricades [sic] in the middle prevented that from happening.

THE COURT: How was traffic wanting to go east on [p. 198] Dixie Way accommodated under that arrangement?

THE WITNESS: We had signs and Dixie Way became a two-way road west of the clinic. What this basically provided was ingress and egress in a westerly direction from the parking lot of the clinic.

THE COURT: For the length of the clinic property it was one way going west?

THE WITNESS: That's correct.

THE COURT: All right.

Q Now, when the baricades [sic] were put in the middle of the street, it was possible, was it not, that

people could stand back there and they don't have to enter the street?

A That's correct.

Q Now, there was some reference on cross-examination to license plates. Do you understand why patients of the clinic would come to the clinic without their license plates?

A Yes, sir.

Q Why?

A Apparently there is someone in the organization that has a link to the Division of Motor Vehicles in Tallahassee. And, they would run registration checks and mail those people correspondence.

MR. WEISS: Your Honor, I would have a problem with that unless he knows of his personal knowledge who did this activity, exactly, you know, who are the involved [p. 199] persons. I want to make sure these activities are attributable in any way to my clients.

MR. D'ALEMBERTE: I think, counsel, upon your representation that your clients have not been involved, I would accept that representation.

MR. WEISS: I would accept that, Your Honor.

Q Continue, Captain.

A And, they would send them correpsondence [sic].

MR. CADLE: Your Honor, when we come to that point, I would like to raise a concern I'm being named in this activity. We're hearing some people mail some things to some other people.

MR. D'ALEMBERTE: I don't think your name has been mentioned, Mr. Cadle.

MR. WEISS: I would like to clarify there is a lot of correspondence from Operation Rescue with a Palm Beach address. My knowledge, Mr. Cadle, is Operation Rescue is in Melbourne, Florida, South Brevard County. That would be the only way I could see –

MR. D'ALEMBERTE: I don't think Mr. Cadle has been named, Your Honor.

MR. CADLE: Not directly.

MR. D'ALEMBERTE: I'm just asking because a question came up about license plates. It might explain why people would want to remove their license plate. I'm [p. 200] asking for a clarification why a driver would drive without a license plate.

Q And, your answer is what, Captain?

A That their license plate number is written down, run through a Compuserve program, find out the registration for the vehicle, and they receive correspondence from either Operation Goliath and Operation Rescue.

(Whereupon, a short recess was held, after which the following proceedings were had:)

THE COURT: Well, all right. Let's finish with this and anticipate the next witness tomorrow.

BY MR. D'ALEMBERTE:

Q Now, at the conclusion of the cross-examination, Mr. Cadle went through the court's order and asked if you had seen certain activities by Mr. Cadle. Now, let me

ask you whether, in your dealings with the impact demonstrations, Mr. Cadle has appeared as a leader of the impact demonstrations?

A Yes, sir.

Q And, in what way has he appeared as a leader of those demonstrations?

A He's the main representative from the meetings that we originally had. Mr. Cadle had knowledge of it. Mr. Cadle has even requested a City Occupational license to open up a business across the street from the Tabernacle Church basically to sell certain Operation Rescue items and Operation [p. 201] Goliath items to help pay for impact training.

Q Has Mr. Cadle come to you at any time wanting to coordinate with the police department relating to these impact demonstrations?

A No. He hasn't come to us. We had to go to him.

Q All right. When you went to him, did he respond as a leader of the impact demonstration?

A From my recollection, I believe Mr. Cadle told me that he was in charge of Operation Goliath and training coordinator for the southern regional director for Operation Rescue.

Q All right. When demonstrations have taken place, have you seen Mr. Cadle, even though you have not been close enough to hear him, have you seen him in the middle of a group of people who were demonstrators?

A Yes, sir.

Q At that time what did he appear to be doing?

A There were times when he was walking in a large group of people. And, also times when he was praying with a large group of people.

Q Okay. Based on your observations, do you have opinion as to whether or not Mr. Cadle is in charge of the impact demonstrators?

A It was my understanding that he was. That was from the meeting with him.

[p. 202] MR. D'ALEMBERTE: Okay. Thank you. That's all, Your Honor.

MR. WEISS: Just briefly, Your Honor.

RECROSS-EXAMINATION

BY MR. WEISS:

Q Not once since the entry of this court order in September of 1992, have you ever seen Ed Martin, Judy Madsen, or Shirley Hobbs, not the Shirley in the back, have you seen them in front of the clinic?

A Which people are you referring to?

Q This fellow right here with the scruffy beard, this lovely lady right here, and other than this Shirley, you don't know who Shirley Hobbs is.

A I don't recall.

Q This is some lady Shirley you know.

A I have never known Shirley's last name. I thought you were referring to that lady.

Q You haven't seen Ed or Shirley Hobbs, other than this Shirley who isn't Shirley Hobbs, in the area of the clinic?

A This lady in the blue looks very familiar.

Q Have you ever seen her?

A I cannot say for sure, no.

MR. WEISS: Nothing further.

[p. 203] THE COURT: Mr. Cadle?

MR. CADLE: Your Honor, very briefly.

RECROSS-EXAMINATION

BY MR. CADLE:

Q You just stated, I believe, Captain Allgeyer, the Melbourne Police always had to come to me to talk. Are you aware of a particular Saturday in front of Aware Woman were some people were originally arrested or taken into custody and later unarrested or released from that custody, in which I approached Captain Keith Chandler, of the Melbourne Police Department, and asked him if we could have a meeting so this type of activity did not continue. Do you recall that?

A I remember a discussion between you and Chief Chandler.

Q Did a formal meeting follow?

A As I recall a formal meeting, I recall Chief Chandler stating in a mutual conversation with you, that the two of us or three of us should get together and try to iron out some things.

MR. CADLE: Your Honor, may I approach the map for one brief second. I believe this diagram has become as clear as mud for us.

Q In many instances, there has been much discussion, I had made a statement earlier about people being forced into [p. 204] the street. I believe you said at one point baricades [sic] were down the middle of the street. When those baricades [sic] were down the middle of the street, were the prolifers on this side of the street?

THE COURT: So the record is clear, would you take a pointer and point to it.

Q On the north side of Aware Woman, were the prolifers allowed on this side of the street or this public property or sidewalk on any of the public right-of-way on that side when the baricades [sic] were down the street for the prolifers standing on the opposite side?

A The roadway was to be left open and nobody was allowed in the roadway. It was for vehicle traffic. And, then the public right-of-way to the north side of the road was open for prochoice people.

Q Prochoice or prolife? Prolife were not allowed anywhere on the public right-of-way in front of Aware Woman Clinic on this particular day; is that accurate?

A No.

Q It is not accurate?

A No.

Q Were prolifers – when the baricades [sic] were down the middle of the road, were prolifers being allowed on the public right-of-way?

A Prolifers?

[p. 205] Q Prolifers. Was I allowed on the right-of-way directly in front of Aware Woman, the sidewalk, the public right-of-way when the baricades [sic] were down the middle of the street?

A No.

Q Prolifers were denied that?

A That was done for public safety and crowd control.

Q Have there been any instances where you had reason to see prolife individuals trying to hand out literature on U. S. One anywhere in the vicinity of Aware Woman?

A Yes.

Q Would that be possible to hand out literature on U. S. One?

A It would be deadly.

Q It would be deadly to hand out literature on U. S. One approaching Aware Woman on Highway U. S. One.

A The problem we run into, Mr. Cadle, handing out literature to a moving motor vehicle is a violation of state law.

Q Okay.

A You would be obstructing traffic –

Q Is there any other alternative?

MR. D'ALEMBERTE: If he can finish his answer, Your Honor.

A – whether it would be on Dixie Way or U. S. One. [p. 206] It's a violation of the law. I have warned you and several people at the protests on Saturdays of that fact.

Q And, Captain, in a meeting with yourself, myself, and the chief of police Keith Chandler, did he say that the fact citations had been written on a previous Saturday would no longer be written related to a memorandum that blocking ingress or egress would be standing in front of a vehicle that citation that had been written, even though he wouldn't tear them up, he would not write a citation for that.

A I don't think that's the way it went. If he attempted to hand a pamphlet to a moving motor vehicle, if someone went up to the vehicle and tapped on the window and attempted to pass the pamphlet into the window and the vehicle has to slow down or make an evasive maneuver to avoid that person or if a person stood in front of a vehicle, it would be obstruction of traffic.

Q If a vehicle is on Dixie Way and there is no other traffic, no one standing in front of this vehicle forcing it to stop, that's not blocking the egress and someone is there to hand out literature and the vehicle voluntarily stops and desires to accept it –

A It has to voluntarily stop.

Q – voluntarily stops and decides to accept it, and someone hands that vehicle literature, that's not obstructing traffic?

[p. 207] A Uh-huh.

MR. WEISS: You need to indicate that audibly yes or no.

THE WITNESS: Yes.

MR. WEISS: I couldn't hear him and I wanted to make sure the record reflected is [sic] answer.

REDIRECT-EXAMINATION

BY MR. D'ALEMBERTE:

Q Captain, from what you observed, is it your impression, is it your impression seeking ingress and egress from Aware Woman are voluntarily stopping to get literature?

A Sir, I've been there since impact training started on January eighteenth, I have seen approximately two people – two vehicles stop and actually be intimidated by stopping and rolling the window down to see what that person needed.

Q The other vehicles have proceeded?

A Pardon?

Q The other vehicles have proceeded on?

A Yes, sir.

Q Was it your impression of the two vehicles that you assumed stopped or they stopped because of people coming up to the car, coming very close to the car?

A Yes, sir.

MR. WEISS: Objection, Your Honor. That calls for [p. 208] mind reading.

THE COURT: Sustained.

MR. D'ALEMBERTE: Thank you.

MR. WEISS: Just one last question.

RECROSS-EXAMINATION

BY MR. WEISS:

Q You are not worried about Mr. Cadle, Ed Martin, and Judy Madsen taking a civil rights action against you because if you comply with all laws, you wouldn't do anything to violate their civil rights you wouldn't have to worry about them possibly suing you.

A That's not correct.

Q You are worried about it?

A I am worried about them suing me even though I do my job correctly.

Q If they brought suit against you and you haven't taken any steps to violate their rights, you've got nothing to worry about. You don't lie awake nights worrying about it?

A No. I don't stay awake. But, I do worry about the other officers who work for me, yes.

Q But, nobody has filed any seeking any civil rights violations against the Melbourne authorities from the beginning of the world to the date of these present demonstrations?

[p. 209] A Civil rights violations?

Q Yes.

A Beginning of the world?

Q From the beginning of October, September 30, 1992, beginning of this lawsuit?

A No.

MR. WEISS: Okay. Nothing further.

THE COURT: Mr. D'Alemberte?

MR. D'ALEMBERTE: No, Your Honor.

THE COURT: All right. May this witness be released?

MR. D'ALEMBERTE: Yes, sir.

THE COURT: Officer, thank you. The court will excuse you from further attendance.

I believe you indicated the next witness is one of an hour or so; is that correct?

MR. D'ALEMBERTE: I think so, Your Honor. We do have another witness, but I don't believe it would be much shorter.

THE COURT: We'll resume at 9:30 tomorrow morning.

(Whereupon, the foregoing proceedings were recessed at 5:50 o'clock p. m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA :
: ss:
COUNTY OF ORANGE :

I, Margie L. Breit, Notary Public for the State of Florida at Large, do hereby certify that the foregoing proceedings were reduced to shorthand in the presence of the within-named parties and later transcribed; that the foregoing is a true and correct transcription of the excerpt of the proceedings as aforesaid.

I do further certify that this hearing was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, counsel, or attorney for either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on March 28, 1993, in Orlando, Florida.

/s/ Margie L. Breit
MARGIE L. BREIT

My Commission Expires:
October 7, 1994
Commission No: CC 05317